



February 22, 2022

REGISTERED MAIL

[REDACTED] Dan O. Asante
[REDACTED] /Director
Rising Trumpet Evangelistic Ministry
266 Jamestown Crescent
Etobicoke ON M9V 3M8

BN: 848399861RR0001
File#: 3042783

Dear [REDACTED] Dan O. Asante:

**Subject: Notice of intention to revoke
Rising Trumpet Evangelistic Ministry**

We are writing with respect to our letter dated February 27, 2019 (copy enclosed), in which Rising Trumpet Evangelistic Ministry (the Organization) was invited to respond to the findings of the audit conducted by the Canada Revenue Agency (CRA) for the period from September 1, 2014 to August 31, 2016. 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 March 15, 2019, and 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 in Appendix A attached.

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 provided a personal benefit to its director, failed to maintain adequate books and records, issued donation receipts not in accordance with the Income Tax 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 February 27, 2019, 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
848399861RR0001

Name
Rising Trumpet Evangelistic Ministry
Rexdale ON

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

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

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

Consequences of revocation

As of the effective date of revocation:

- a) the Organization will no longer be exempt from Part I tax as a registered charity and **will no longer be permitted to issue official donation receipts**. This means that gifts made to the Organization would not be allowable as tax credits to individual donors or as allowable deductions to corporate donors under subsection 118.1(3) 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 B. 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 February 27, 2019
- Organization's representations dated March 15, 2019
- Appendix A, Comments on representations
- Appendix B, Relevant provisions of the Act

c.c.: [REDACTED]

Identified areas of non-compliance

1. Providing a personal benefit to a proprietor, member, shareholder, trustee, or settlor of the Organization, undue benefit, private benefit:

Legal considerations:

The Organization is registered as a charitable organization. In order to satisfy the definition of a "charitable organization" pursuant to subsection 149.1(1) of the Act, "charitable organization" is defined as, "an organization.... no part of the income of which is payable to, or otherwise available for, the personal benefit of any proprietor, member, shareholder, trustee or settlor thereof." Therefore an organization that delivers a personal benefit may have its registered status revoked.

A separate but related concept is undue benefit, which is legislated, and is described at subsection 188.1(5) of the Act as follows:

(5) For the purposes of this Part, an undue benefit conferred on a person (referred to in this Part as the "beneficiary") by a registered charity includes a disbursement by way of a gift or the amount of any part of the income, rights, property or resources of the charity that is paid, payable, assigned or otherwise made available for the personal benefit of any person who is a proprietor, member, shareholder, trustee or settlor of the charity, who has contributed or otherwise paid into the charity more than 50% of the capital of the charity, or who deals not at arm's length with such a person or with the charity, as well as any benefit conferred on a beneficiary by another person, at the direction or with the consent of the charity, that would, if it were not conferred on the beneficiary, be an amount in respect of which the charity would have a right, but does not include a disbursement or benefit to the extent that it is

- (a) an amount that is reasonable consideration or remuneration for property acquired by or services rendered to the charity;
- (b) a gift made, or a benefit conferred, in the course of a charitable act in the ordinary course of the charitable activities carried on by the charity, unless it can reasonably be considered that the eligibility of the beneficiary for the benefit relates solely to the relationship of the beneficiary to the charity; or
- (c) a gift to a qualified donee.

The provision of an undue benefit is a sanctionable offense. If an undue benefit is conferred by a charity the calculation to determine the amount of the sanction that the

CRA will apply for the infraction is found in subsection 188.1(4) of the Act¹.

A third separate but related concept is that of private benefit. Although a charity cannot be established to confer private benefits, private benefits arise in the course of pursuing charitable purposes. The public benefit provided must not be outweighed by any ensuing private benefit. Any benefit to an individual or group of individuals must either arise directly through pursuit of the charity's purposes (for example, relief of poverty), or be incidental to the pursuit of those purposes (for example, as in the case of programs pursued by community economic development organizations), by providing inducements to attract needed social and community services to a distressed region. Private benefit is only acceptable as incidental to charitable purposes.

When a charity is carrying out activities that deliver a more than incidental private benefit (one that is not reasonable given its purposes), that delivery of private benefits is viewed as having become a collateral unstated purpose. Because a purpose seeking to confer private benefits is not charitable, the charity is not considered to have been constituted and operated for exclusively charitable purposes. A charity with such a collateral purpose would be subject to revocation.

Audit findings:

It is our position that the Organization was providing personal benefits to its President, [REDACTED] Dan Asante. As well, the Organization was making unsupported payments (described as "loan reimbursements") that appear to constitute personal benefits to Ms. Jackline Atta, a former director and member of the Organization. The reasons for our position are described below.

During the course of the audit we found the following:

- Bank records indicating that the Organization had written cheques to [REDACTED] Asante for an amount of at least \$2,200. Based on accompanying notes, these funds had been used to pay the [REDACTED]'s personal rent, as well as the registration for his van (April and November, 2015), and a Hydro bill;
- A notation indicating that [REDACTED] in the amount of \$277 had been paid out of the Organization's funds. This notation contained a statement that the "[REDACTED] had been received while on missions for the church". The person who had received [REDACTED] is not identified, however the van is under the care of [REDACTED] Asante;
- Bank records indicating that the Organization also made payments totaling \$1,635 to Ms. Atta (mentioned above). While the banking records contained

¹ For more information go to Guidelines for applying sanctions, at canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/guidelines-applying-sanctions.html

handwritten notes stating that these payments were reimbursements for various loans, no supporting documentation was provided;

- Bank records indicate further that an amount of \$885 was expended on a "Prophetess Rita Crusade Ticket". No supporting documentation was provided that would allow us to determine what this is or if it is an acceptable expenditure; and
- Eight hundred dollars in cash was removed from the church's account in April, 2015, with no indication as to who took the money, why, or how it was spent.

The total dollar amount expended on what appears to be personal benefits between 2015 and 2016 was \$4,962. The total revenues (all of which were donations) reported were \$10,458 in 2015, and \$9,092 in 2016.

By making part of the Organization's income payable to, or otherwise available for, the personal benefit of its directors, the Organization conferred a personal benefit on those directors.

As explained above, these personal benefits may also be considered undue benefits. Although subsection 188.1(5) of the Act specifies that a charity may be sanctioned if it is providing an undue benefit, the CRA does not intend to apply sanctions to the Organization at this time.

By conferring a personal benefit on its directors, the Organization is in contravention of subsection 149.1 of the Act. For this reason, there may be grounds to revoke the registered status of the Organization under paragraph 168(1)(c) of the Act.

2. Failure to maintain adequate books and records as required

Legal considerations

According 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) states that "Every person required by this section to keep records and books of account shall retain:

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- 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 CRA's expectations relating to the maintenance of books and records and books of account are found at

canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/books-records.html

This policy is based on several judicial determinations and the law, which have held that:

- i. it is the responsibility of the registered charity to prove that its charitable status should not be revoked;²
- ii. a registered charity must maintain, and make available to the CRA *at the time of an audit*, meaningful books and records, regardless of its size or resources. It is not sufficient to supply the required documentation and records subsequent thereto;³ and
- iii. the failure to maintain proper books, records, and records of account in accordance with the requirements of the Act is itself sufficient reason to revoke an organization's charitable status in the case of material or repeated non-compliance.⁴

Audit findings

It is our position that the books and records being maintained by the Organization were inadequate for the purposes of the Act, for the following reasons:

- the records could not be traced to source documentation;
- the bank statements could not be reconciled to the ledger or T3010 returns;
- donations received could not be verified;
- receipts did not contain prescribed information; and,
- records of donations were not maintained for six years as required.

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

³ *Canadian Committee for the Tel Aviv Foundation*, 2002 FCA 72 at para 39, [2002] 2 CTC 93. Furthermore, failing to comply with the requirements of section 230 of the Act by refusing to make documents available can lead to a fine and imprisonment, in addition to the penalty otherwise provided. See subsection 238(1) of the Act.

⁴ See *Prescient Foundation v MNR*, 2013 FCA 120 at para 51, [2013] FCJ no 512.

Under paragraph 168(1)(e) of the Act, the registration of a charity may be revoked if it fails to comply with or contravenes subsection 230(2) of the Act dealing with books and records. It is our position that the present case consists of material non-compliance. For this reason, it appears to us that there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(e) of the Act.

3. Issuing donation receipts not in accordance with the Act and/or its Regulations

Legal considerations

Pursuant to subsection 118.1(2) of the Act, a registered charity can issue tax receipts for income tax purposes for donations that legally qualify as gifts. The law provides various requirements with respect to issuing official donation receipts by registered charities. These requirements are contained in Regulations 3500 and 3501 of the Act.

Audit findings

It was noted during our review that the Organization's official donation receipts (ODRs) were not issued in accordance with the Act and its Regulations. Specifically, the Organization's ODRs were missing the following:

- A statement that it is an "official receipt for income tax purposes".
- The Organization's address in Canada as recorded with CRA. (Two addresses were listed).
- The name, Canada Revenue Agency, and the website address **www.canada.ca/charities-giving**.
- If cash and a single donation, the date or the year during which the donation was received. (Two different years were on the 2015 receipts.)
- If cash and multiple donations, the dates or the year during which the donations were received. (Two different years were on the 2015 receipts.)
- A unique serial number.
- The place or locality where the receipt was issued.
- The complete address of the donor.

The audit revealed the following additional issues related to the Organization's receipting practices:

Control of Receipts:

- Receipts were not issued in a reasonable manner with respect to the unique serial numbers.

PROTECT

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- It is not possible to account for all receipts as they are not tracked by number.
- The security measures put in place by the Organization to safeguard receipts are not sufficient. While the Organization has stated that receipts are kept inside the locked church; this appears to be the extent of security measures that are employed. As well, the [REDACTED] reported that in the past, records from the church had been stolen by a [REDACTED] former member.
- The Organization keeps track of receipts using a handwritten note book, with the only entries being a name, date of donation, and amount received, minus occasional cash withdrawals. To properly control its receipts, a charity should have a system in place that allows it to create a listing of official donation receipts issued, with information 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.
- There were instances when donations received by the Organization were withheld from deposit and were instead given directly to directors and members of the church. The Organization did not make receipts available that show where these donations were spent.
- The Organization's practises with regard to the replacement of lost, spoiled, or voided official donation receipts are not in accordance with the Act.

Miscellaneous Issues:

- The Organization's accountant received a receipt for services, in the amount of \$2,400 for each year.

As such, the Organization has issued receipts otherwise than in accordance with the Act and its regulations, which is sufficient grounds for revocation, as stated in section 168(1)(d).

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

Legal considerations

Subsection 149.1(14) of the Act states:

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.

102-4

It is the responsibility of the Organization to ensure that the information provided in its Form T3010s, 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.

Audit findings

We identified the following:

- Section A: Identification, box 1600 should have been checked "No";
- Section C: Programs and General Information, Section C6, box 2530 should have been checked;
- Section D, Financial Information,
 - line 4020 should have been indicated as Cash not Accrual based on the method being used;
 - line 4200 could not be substantiated, no records were maintained showing assets had been purchased by the Organization. Bank balances were reported correctly under liabilities;
 - line 4500 was incorrectly reported. Receipts issued for 2015 and 2016 respectively totaled \$11,506 and \$12,941, however only \$9,092 and \$10,458 was reported, per the Organization's notebook listing;
 - line 4530 was left blank, however cash amounts were received in the collection plate that should be reported separately from donations on this line;
 - line 4700 was incorrectly reported. Total revenues received do not match totals deposited in the bank, and are less than total donation receipts issued. As well, the Organization would pay for expenses out of donations from the collection plate without proper tracking or documentation;
 - line 4860 was incorrectly reported as the accountant charged a fee of \$2,400, paid via donation receipt, yet only \$100 was reported with no indication as to what this expense pertained to;
 - Line 4810 was incorrectly reported. The amount could not be substantiated by the records;
 - Line 4920 was incorrectly reported. The amount could not be substantiated by the records;
 - Line 4950 was incorrectly reported. Bank statements show total expenses for the period (not counting the accountants fee) for 2015 and 2016 respectively as \$10,720.84 and \$7,656.25. However the returns reported \$9,475 and \$9,074;

ATTENTION
PAMELA TRIBIGER
6 pages

March 15 2019

BN:8483998961RR0001
File: 3042783

Canada Revenue
Agency
Audit Division
Suite 10, 9700 Jasper Avenue,
Edmonton, A13 T5J4C8
Canada

Subject

1. Providing a personal benefit to a proprietor, member, share holder, trustee, or settler of the organization, undue benefit, private benefit.

Dear Sir/ Madam,

Be advised that such as personal/private benefit has never been granted to anybody whether the president or any member of our church at any given day, time or year ever since the ministry started for almost ten years now.

A) [REDACTED] Dan Owusu Asante being the [REDACTED] and only worker (full time) for Rising Trumpet Evangelistic Ministry since June 2009 has never been paid, neither does the ministry gives him benefits. The reason being that : 1. The number of members in the ministry is few and that the ministry does not have enough funds (money) to pay him.

B) [REDACTED] Dan Owusu Asante uses his little resources, personal vehicle to travel up and down as the need might be to do the church business on daily basis.

The church does not pay anything in terms of vehicle use, maintenance, but only purchases gas for church services days.

B2) During the sunday and friday services [REDACTED] uses this same vehicle to pick up some members who without that means cannot come to church and drop such as 3 families who live in three different locations after each church service. Such, the ministry buys gas. We have all the receipts to back our claim, we have a record book of expenses which records all transactions

That take place in our church. Furthermore, we provided all these records to the Revenue Canada Officer who came to audit our church Sept 2017.

B3) There are no records that suggest that [REDACTED] Dan Owusu Asanto has been receiving benefit or private benefit whatsoever in our church books nor our receipts.

2. An allegation that our organization (church) was making unsupported payment described as "Loan reimbursement to constitute a personal benefit to Mrs. Jackline Atta (a previous member)" is false.

Explanation:

The [REDACTED] had to make a trip to Nigeria for a church conference which was intended to strengthen him spiritually, deliver him, assist him in being relieved of certain spiritual attacks as a result of him delivering our church members, praying and healing the sick. The church sent him on that conference but had no funds. So Mrs. Jackline Atta [REDACTED] offered to purchase the plane ticket so that our church would repay her on a monthly basis. We completed the payment to her with church cheques and we have the records as well as the cheque receipts to support our claims.

Since our [REDACTED] travelled for the mission of the ministry and does not receive pay for all his services, it is the responsibility of our church to pay for his transportation and/or accommodation.

3: Bank records

When the ministry began, [REDACTED] had to [REDACTED] and begin the ministry work full time. Hence, there came a point in time that [REDACTED] could not be paid for. He was also been in [REDACTED] at the time and [REDACTED]. The church offered to pay for [REDACTED] and the record is written in our church books.

Registration for [REDACTED] Dan Asante's Van in 2015

Explanation:

Our ministry started our church branch in Montreal. During this time period, [REDACTED] had to travel back and forth to work and establish the branch church of Rising Trumpet. Due to many people coming from Montreal to our Toronto services, the church board, pastor, and the congregation as well as our Montreal members agreed that one member should receive training, and start a part of the church there. During the course of work which took place between 2014-2015 (church mission field), it was necessary of the [REDACTED] to change his van number to that of Montreal, in order to pay cheaper insurance because [REDACTED].

After the establishment of the church, he had to hand it over and come back to Toronto entirely. In the course of bringing the van back, the government of Montreal had to charge a vehicle tax, and the church paid this.

Hydro bill:

Each month the ministry gets a hydro bill which is paid through online [REDACTED] Banking. All receipts for church hydro are available and the receipts were given to the officer of Revenue Canada when she came for the auditing. The bill bears the name of the church, date, and amount.

[REDACTED] \$277.00

A [REDACTED] was given to [REDACTED] Dan whilst he was on a 3 day crusade with the Montreal church. It was after the Crusade (Mission Field) and he was returning to Toronto when he'd received [REDACTED]. Since he is working for the ministry, and it was one of his free services to the Montreal church, the ministry paid for [REDACTED]. The [REDACTED] had been using his personal car, not that of the church. The van is his property and not that of the ministry yet because the work of God is a calling, and he serves God with all he has.

Supporting documents that prove that the loan given to the church by Mrs. Jackline Atta are in the cheque book, as well as the banking information. The church cheque book has its own receipts that cannot be described as "written notes".

Prophetess Rita:

As part of the church mandate as required by our Bible and our church constitution and bylaws, we brought Prophetess Rita from London England for a seven day crusade with our Toronto church as well as a three day prophetic crusade with the Montreal branch. The price of the prophetess' travelling ticket from London to Canada and back was \$885.00. This can also be verified with Immigration Canada if more information is needed. Such has been recorded in our expenses book, and that is why Revenue Canada and their officer saw it in our records.

Every amount of money that was taken from the church account has its own documentations in our church record book and/or the cheque book, such as the \$800.00 you'd previously mentioned; it is also recorded.

Our rent during the year of April 2015 was \$800.00. The records show date, whose name the cheque was written and what it was for. We are the board members of Rising Trumpet, and the church members prove beyond doubt that no personal benefit has been granted to any member, or our president/pastor. Every experience has its own records, date, persons involved, what it was for and it's all been used to the benefit of our church.

Our pastor serves the ministry without pay, benefit, and no personal use of church money. All church funds are used only for the benefit and promotion of church activities. All the records have been kept for nine years till date.

All our church records since June of 2019 till date have been kept.

[REDACTED]

All our Bank Statements will be reconciled if you take the record books, receipt of gas, electricity bill and add it to the bank information.

Note:

Gas is needed every service day to transport members to and from church and we cannot issue cheques for gas purposes, it must be cash.

Electricity or hydro and other bills are paid plus rent.

All donations received are recorded, dated, name of donor written and total of at the end of each month and year. Therefore the officer who audited our church records had not been fair to our establishment, and we believe she made baseless assumptions instead of verifying information she did not understand with us.

Donation receipt

Our donation receipts are always ready every January of each given year.

It has the full name of the church

Revenue Canada number

Full address of our church

Base year

Telephone number of the ministry, email

A small thank you note from the church

The full name of the donor

The full amount the donor gave and the year it was given

It has the officiating ministers signature and date signed.

The organization address

The church address is and remains: [REDACTED]

We made the mail address to the pastor and the only full time worker of the church because, our church does not have any receiving mail box by our church premises.

Our mailing address remains as:

266 Jamestown Crescent

M9V 3M8

Etobicoke, ON

The place and locality where the donation receipt was issued is found in the name of the church and the address of the church.

We shall include the complete address of the donor in next year's' receipt. That will be corrected.

We shall also add a serial number to the receipts.

Corrections:

There was no statement claiming that the church records had been stolen. The statement that had been misinterpreted in that manner was in fact, "Deliverance counseling forms which belong to Jackline Atta, were taken by her when she left. Those forms are her personal records."

1. The organization has all purchased cheques record of payment with cheques, transportation expenses: gas, receipts are all kept.
2. There were no circumstances where any donations were kept by persons. Donations (tithe and offerings) are given during church services.
3. They are recorded into the church donation book by the financial secretary/treasurer.

Name of person

Date

Amount

are all recorded.

The money is counted, confirmed, and verified by the financial secretary/treasurer and is taken to the bank the following business day.

There is nothing like replacement of lost, spoiled, or voided official receipts in Rising Trumpet. We have never had such practices/situations.

Income Tax T3010

Our organization always files yearly income tax.

We always file our church income tax within the speculated time. We have never missed a year of filing the income tax.

We have all the responses from Revenue Canada stating that they received our income tax.

Rising Trumpet Evangelistic Ministry**Comments on Representations**

In our administrative fairness letter (AFL) dated February 27, 2019, we explained that the audit conducted by the Canada Revenue Agency (CRA) for the period from September 1, 2014 to August 31, 2016, identified that the Rising Trumpet Evangelistic Ministry (Organization) is not operating in compliance with the provisions of the Income Tax Act in the following areas:

1. Providing a personal benefit to a proprietor, member, shareholder, trustee, or settlor of the Organization
2. Failed to maintain adequate books and records
3. Failed to issue official donation receipts in accordance with the Act and/or its Regulations
4. Failed to file an information return as and when required by the Act and/or its Regulations

We have reviewed and considered your written response dated March 15, 2019, and we maintain our position that the non-compliance identified during the audit represents a serious breach of the requirements of the Act. As a result of this non-compliance, the Organization's registration as a charity should be revoked.

The basis for our position is described in detail below, including:

- a summary of the issues raised in our AFL dated February 27, 2019;
- the Organization's representations dated March 15, 2019; and
- the CRA's response to the representations.

1. Providing a personal benefit to a proprietor, member, shareholder, trustee, or settlor of the Organization

As stated in our AFL, the audit found that the Organization's funds were used to provide personal benefits upon its sole director, [REDACTED] Dan Asante and a former director and church member, Mrs. Jackline Atta. In particular, funds were used to pay personal expenses for [REDACTED] Asante, such as rent for his personal residence, gas, the vehicle registration for his personal vehicle, [REDACTED], and a cash withdrawal in the amount of \$800. Further, the Organization's bank records showed that it had made payments totaling \$1,635 to Mrs. Atta, however, no supporting documentation was provided to explain the charitable purpose of these payments.

Organization's response:

In its representations, the Organization stated that no personal/private benefit had ever been granted to any individual, whether in reference to the president or any member of the Organization, at any time since the Organization started. [REDACTED] Asante is the only full-time employee of the Organization since June 2009, and has never been paid or received benefits from

the Organization as there is insufficient funds to pay the pastor. The Organization's representations also provided an explanation for each expenditure that was identified as a personal benefit to [REDACTED] Asante and Mrs. Atta in the AFL, and claimed that all supporting records had been provided to the CRA auditor.

CRA's response:

The Organization's representations provided some explanations for the payments, however, it did not include documentation to support that the expenses claimed were necessary to perform the required duties or to further the Organization's charitable purposes.

While a charity may compensate employees for their work or reimburse individuals for expenses incurred while performing the duties of the charity, the onus is on the charity to show through documentary evidence maintained with its books and records, that they are reasonable and necessary for the operations of the charity.

For example, in its representations, the Organization confirmed that it had paid for [REDACTED] Asante's rent when he started working for the Organization on a full-time basis, but there were no records provided to demonstrate that this expenditure was to carry out the Organization's charitable activities. The Organization also paid for [REDACTED] Asante's personal vehicle registration as he was travelling between Toronto and Montreal in the course of establishing a church branch in Montreal. However, no supporting documentation was provided to verify that the expenditure was in furtherance of a charitable program. During the audit, [REDACTED] Asante stated that it was not uncommon for him to take money from the church collection envelopes in order to pay for gas. However, the audit found that the funds taken from the envelopes had not been recorded in the Organization's books and records and the envelopes were destroyed. In its representations, the Organization did not provide supporting documentation, such as expense receipts or a mileage logbook, to demonstrate that the gas purchases were in furtherance of the Organization's charitable purposes. The Organization's representations confirmed that [REDACTED] Asante was issued [REDACTED] while attending a three day crusade with the Montreal church, and as [REDACTED] Asante was working for the Organization at the time, it paid [REDACTED]. The [REDACTED] issued to [REDACTED] Asante was not required to further the Organization's charitable purposes. As such, this expenditure is considered personal in nature. Our audit also found that a cash withdrawal in the amount of \$800 was made from the Organization's bank account in April 2015, for which the Organization's representations indicated this expenditure was for rent for April 2015. However, the Organization did not provide supporting documentation for this expenditure.

With respect to the loan reimbursement to Mrs. Atta, the Organization's representations suggests that the loan was for the purchase of a plane ticket for a trip to Nigeria where the [REDACTED] attended a church conference, and that the loan was repaid through cheques for which the Organization has all the related records and cheque receipts to support this expenditure. While the banking records contained handwritten notes stating that these payments were loan reimbursements, the Organization did not provide documentation to demonstrate the existence of, and accounting for, such a loan and its repayment terms. The records provided by the Organization simply show that the Organization issued cheques to Mrs. Atta.

Moreover, no source documents, such as a flight itinerary, boarding pass, and the invoice for the purchase of the flight were provided to verify that the trip had occurred, nor were source documents, such as an itinerary for the conference, pamphlets/brochures, or information provided at the conference to illustrate the primary purpose of the trip and that it was in furtherance of the Organization's charitable purpose.

In our AFL, we stated that bank records showed that an amount of \$885 was expended on a "Prophetess Rita Crusade Ticket". The Organization's representations state that it paid for Prophetess Rita's round trip airfare from London to attend church crusades in Toronto and Montreal. However, no supporting documentation was provided by the Organization to verify that this expenditure was in furtherance of a charitable program.

For the reasons stated above, the Organization's representations have not alleviated our concerns regarding providing a personal benefit. Accordingly, it is our position that the Organization has failed to meet the requirements of subsection 149.1(1) of the Act and that there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(b) of the Act.

2. Failed to maintain adequate books and records

In our AFL, we explained that the audit found that the Organization did not maintain adequate books and records, in accordance with subsection 230(2) of the Act, such as:

- records made available to the auditor could not be traced to source documentation;
- banking statements could not be reconciled to the general ledger or T3010 returns;
- the total donations amount recorded in the Organization's T3010 returns for the audit period could not be verified;
- receipts did not contain prescribed information; and,
- records were not maintained for the required six years.

Organization's response:

With respect to books and records, the Organization's representations state that "[e]very amount of money that was taken from the church account has its own documentations in our church record book and/or the cheque book", "[e]very experience has its own records, date, persons involved, what it was for and it's all been used to the benefit of our church", "[a]ll church funds are used only for the benefit and promotion of church activities. All the records have been kept for nine years till date" and that "[a]ll our [b]ank [s]tatements will be reconciled if you take the record books, receipt of gas, electricity bill and add it to the bank information".

CRA's response:

We acknowledge that the Organization provided what it considered to be complete books and records for the purpose of our audit. However, the Organization's representations provided explanations but did not provide additional documentation to address the concerns identified in our AFL. In the absence of such documentation, the expenditures cannot be substantiated and our concerns have not been alleviated.

In order to meet the requirements of the Act, a charity's books and records must allow the CRA to verify revenues; to verify that resources are spent on charitable programs; and, to verify that the charity's purposes and activities continue to be charitable. It is the Organization's responsibility to maintain books and records that meet the requirements of the Act.

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.¹ Failure to maintain adequate books and records in accordance with the requirements of the Act is itself sufficient reason for the CRA to revoke an organization's charitable registration.²

As a result, our position remains that the Organization does not maintain adequate books and records, and therefore does not meet the requirements of subsection 230(2) of the Act. For the reasons indicated above, it is our position that there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(e) of the Act.

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

Our audit found that the Organization's official donation receipts (ODRs) were not issued in accordance with the Act and its Regulations. Specifically, the Organization's ODRs were missing the following required elements:

- A statement that it is an "official receipt for income tax purposes".
- The Organization's address in Canada as recorded with the CRA. (Two addresses were listed).
- The name, Canada Revenue Agency, and the website address, www.canada.ca/charities-giving.
- If cash and a single donation, the date or the year during which the donation was received. (Two different years were on the 2015 receipts.)
- If cash and multiple donations, the dates or the year during which the donations were received. (Two different years were on the 2015 receipts.)
- A unique serial number.
- The place or locality where the receipt was issued.
- The complete address of the donor.

We also found deficiencies with respect to the Organization's receipting practices, such as the ODRs could not all be accounted for as they are not tracked by number, insufficient security measures to safeguard the receipts, and an inadequate system of reporting and tracking all donations received by the Organization. Further, the Organization had issued an ODR to its accountant for services rendered.

¹ Humane Society of Canada for the Protection of Animals and the Environment v Canada (National Revenue), 2015 FCA 178 at para 80.

² Income Tax Act, RSC 1985 c 1 (5th supp) at s 1681(1)(e); See also generally examples in College Rabbinique de Montreal Oir Hachaim D'Tash v Canada (Minister of Customs and Revenue Agency) 2004 FCA 101; Ark Angel Foundation v. Canada (National Revenue), 2019 FCA 21 at paras 37-39.

Organization's response:

In its representations, the Organization stated that “[a]ll donations received are recorded, dated, name of donor written and total of at the end of each month and year” and provided a list of the elements contained in its ODRs issued. Further, the Organization stated that it would include the complete address of the donor in next year's receipt and will add a serial number to the receipts issued.

CRA's response:

While we recognize that the Organization has identified measures it will take with respect to its receipting practices, it did not provide any supporting documentation to demonstrate the implementation of these measures, nor did it provide any documentation to verify the accuracy of its record keeping or its receipting practices.

Further, the Organization's representations did not address all of the missing required elements for its ODRs. Specifically, the first five bulleted elements described in the section above. The ODRs that the Organization issues must contain the prescribed contents of a receipt as per Subsection 3501(1) of the Regulations.

We acknowledge the Organization's willingness to make changes to its official donation receipts and receipting practices. However, the Organization's representations did not entirely alleviate our concerns with respect to Regulations 3500 and 3501 of the Act regarding when to issue a receipt and what information is required. In addition, the Organization's representations did not address the issuance of an ODR for the services provided by its accountant. At law, a gift is a voluntary transfer of property. Gifts of services (donated time, skills, or efforts) provided to a charity are not property, and therefore do not qualify as gifts for the purposes of issuing official donation receipts.

As a result, the Organization's representations did not alleviate our concerns and our position remains that it has issued receipts not in accordance with the Act. For this reason, it is our position that there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(d) of the Act.

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

In our AFL, we identified numerous errors and omissions with respect to the Organization's Form T3010, Registered Charity Information Return, for the audit period, including incorrect reporting of the Organization's receipts issued for 2015 and 2016, total revenues and total expenses.

Organization's response:

In its representations, the Organization stated that it always files its annual information return within the speculated time, and has never missed a year of filing.

CRA's response:

While we acknowledge the Organization's commitment to filing its T3010s on time, its representations did not address the errors and omissions identified in our AFL, nor did it provide any information or documentation to demonstrate how the Organization intends to remedy the non-compliance identified.

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 Canadian Federal Court of Appeal has confirmed that a significant number of inaccuracies, or beyond what might reasonably be viewed as minor in a T3010 are a sufficient basis for revocation.³

As a result, the Organization's representations have not alleviated our concerns and our position remains that the Organization has failed to meet the requirements of subsection 149.1(14) of the Act, that it file its information return as and when required by the Act and/or its Regulations. For this reason, it is our position that there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(c) of the Act.

Conclusion

For the reasons explained above and in our letter dated February 11, 2019, it is the CRA's position that the Organization has failed to meet the requirements for registration as a charitable organization as outlined in subsections 168(1), 149.1(1) and 149.1(2) of the Act. As such, the Organization should have its registration as a charity revoked pursuant to subsection 168(1) of the Act.

³ Opportunities for the Disabled Foundation v MNR, 2016 FCA 94 at paras 50-51.

APPENDIX B

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

(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

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,

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,

(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;
- (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,

(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.

Tax and Penalties in Respect of Qualified Donees

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) a registered charity
 - (i) 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,
 - (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,

(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 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.