



March 18, 2021

REGISTERED MAIL

Yvonne Pryce
Vice-President
Refuge Temple Apostolic Church

BN: 888645066RR0001
File#: 0966432

Dear Yvonne Pryce:

**Subject: Notice of intention to revoke
Refuge Temple Apostolic Church**

We are writing with respect to our letter dated December 6, 2019 (copy enclosed), in which Refuge Temple Apostolic Church (the Organization) was invited to respond to the findings of the audit conducted by the Canada Revenue Agency (CRA) for the period from February 1, 2015 to January 31, 2017, and explain why the registration of the Organization should not be revoked in accordance with subsection 168(1) of the Income Tax Act (Act).

We have reviewed and considered your written response dated January 4, 2020. 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 was 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 complete an accurate registered charity information return as and when required by the Act and/or its Regulations, and issued donation receipts not in accordance with 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 December 6, 2019, pursuant to subsection 168(1) and 149.1(2) of the Act, we propose to revoke the registration of the

Organization. By virtue of subsection 168(2) of the Act, revocation will be effective on the date of publication of the following notice in the Canada Gazette:

Notice is hereby given, pursuant to paragraphs 168(1)(b), 168(1)(c), 168(1)(d) and 168(1)(e) 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	Name
888645066RR0001	Refuge Temple Apostolic Church Edmonton, AB

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

Assistant Commissioner
Appeals Branch
Canada Revenue Agency
13th Floor
250 Albert Street
Ottawa ON K1A 0L5

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

A copy of the relevant provisions of the Act concerning revocation of registration, including appeals from a notice of intention to revoke registration, can be found in Appendix 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 (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 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 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 December 6, 2019
- Appendix A, Comments on representations
- Appendix B, Relevant provisions of the Act

c.c.: Robert Barnett



December 6, 2019

Robert Barnett
Refuge Temple Apostolic Church
3140 Parsons Road NW
Edmonton, AB T6N 1L6

BN: 888645066RR0001
File#: 0966432

**Subject: Charity audit of Refuge Temple Apostolic Church
for the period from 2015/02/01 to 2017/01/31**

Dear Mr. Barnett:

This letter results from the audit of Refuge Temple Apostolic Church (the Organization) conducted by the Canada Revenue Agency (CRA) for the period noted above.

The CRA has identified specific areas of non-compliance with the provisions of the Income Tax Act (the Act) and/or its Regulations in the following areas.

AREAS OF NON-COMPLIANCE		
	Issue	Income Tax Act Reference
1.	Failure to maintain adequate books and records as required	149.1(2), 230(2), 168(1)(b), 168(1)(e), 188.1, 188.2(a)
2.	Failure to complete an accurate registered charity information return as and when required by the Act and/or its Regulations	149.1(2), 149.1(14) 168(1)(c), 188.1(6)
3.	Issuing donation receipts not in accordance with the Act and/or its Regulations	149.1(2), 168(1)(d), 188.1(7) or 188.1(9) Regulation 3500 and 3501

Registered charities must comply with the law, failing which penalties and/or suspensions may be applicable pursuant to sections 188.1 and/or 188.2 of the Act. These include suspension of the Organization's authority to issue official receipts and suspension of its status as a "qualified donee". While the purpose of a sanction is to provide an alternative to revocation, notice may still be given of our 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.

Background

The Organization was audited twice previously for its fiscal period ending January 31, 2007 and fiscal periods ending January 31, 2011 and January 31, 2012.

The 2007 prior audit revealed that the Organization failed to maintain adequate books and records, issued donation receipts not in accordance with the Act and/or its Regulations, failed to issue T4A slips for honorariums paid to individuals, and violated its "Charitable Organization" status.

The 2011 & 2012 prior audit resulted in the Organization failing to maintain adequate books and records, issuing donation receipts not in accordance with the Act and/or its Regulations, failing to issue T4A slips for honorariums paid, failing to issue T4 slips for benefits conferred, and failing to complete an accurate charity information return.

The CRA provided the Organization with the opportunity to address the 2007 areas of non-compliance by entering into a Compliance Agreement¹ with CRA, that was signed by [REDACTED] Barnett on May 3, 2008. This agreement contained corrective measures for the Organization to carry out that included maintaining adequate books and records such that the revenues and expenses of the charity can be reconciled and verified to supporting documentation, future official donation receipts will include the missing elements identified during the audit, and the Organization will ensure that T4A slips are prepared and issued for honorariums greater than \$500.00.

The audit of the 2011 & 2012 years was in follow up to the prior audit compliance agreement and it was determined that not only were areas of non-compliance identified in the prior audit not addressed but additional non-compliance issues were found. Again, the CRA gave the Organization the opportunity to address the areas of non-compliance by entering into a Compliance Agreement that was signed by [REDACTED] Barnett on February 12, 2014. [REDACTED] Barnett, in the said Compliance Agreement, agreed to implement the corrective measurements on or before February 28, 2014.

Based on our current audit findings and the findings of the prior audits, we are concerned about the Organization's future compliance, particularly given its failure to remedy its areas of non-compliance in accordance with the corrective measures outlined in the agreements dated May 3, 2008 and February 12, 2014.

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

¹ Compliance Agreement - Such an agreement is reached through discussion with, and agreement from, the charity. The terms of the agreement are spelled out in a formal document called a compliance agreement that is signed by both the charity and the CRA. The agreement identifies the problems, the steps the charity will take to bring itself into compliance, and the potential consequences to the charity of not abiding by the agreement.

Identified areas of non-compliance

1. Failure to maintain adequate books and records as required

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

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

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

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

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

- i. it is the responsibility of the registered charity to prove that its charitable status should not be revoked;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

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.

Audit findings

The current audit review of the 2016 and 2017 fiscal periods revealed that the Organization remains non-compliant.

a) Lack of supporting documentation

The following inaccuracies and areas of concern were found within the books and records:

- No receipts or invoices were provided to support expenditures⁵;
- No official donation receipts were provided for the 2016 & 2017 fiscal periods;
- No credit card statements or supporting documentation was provided to support expenditures reimbursed to directors;
- Bank statements were missing for the bank accounts during both fiscal years and copies of random cancelled cheques were not provided;
- Meeting minutes were missing during 2017;
- No rental income was reported for the space rented on the upper floor to an accounting firm and no lease agreement was provided;
- Fundraising revenues from chocolate sales were not reported;
- A mileage log was not maintained to determine the business to personal use of the [REDACTED]
- There was \$14,000.00 of wages paid to management in the 2017 financial statements that should have been part of program costs;
- Inconsistent expenditure amounts from year to year (i.e. \$33,017.00 rent and occupancy expenditures in 2016 and none in 2017); and
- No weekly tithe cash count sheets and offering envelopes provided.

b) Revenue does not reconcile / Unreported revenue⁶

The audit revealed that the total reported revenue did not reconcile to the records.

The Organization reported total revenue of \$92,231 and \$120,191 in 2016 and 2017, respectively, on the T3010 information return. The donation receipt summary provided by the Organization indicated total donations to be \$69,044.77 in 2016 and \$96,893.74 in 2017.

The Organization did not provide duplicate copies of the donation receipts it issued during the 2016 and 2017 fiscal periods for review. Therefore, the reported tax-receipted revenue could not be reconciled to source documentation.

⁵ The audit revealed \$5,165 paid to the director purportedly as reimbursements for airfare (x2), a laptop, and some unknown expenses. Items also included expenditures at [REDACTED] and numerous grocery stores.

⁶ The reported income on the 2017 T3010 had included fundraising revenue of \$24,396. However, the accountant had represented that this was an error and the amount should have been included in tax-receipted revenue.

The banking records provided were incomplete and, as such, the information could not be reconciled to the books and records to verify the reported revenue. The Organization only provided bank statements for January 2016 and for the period July to October 2016.

The audit revealed that the Organization rented space on the upper floor of its building to an accounting firm but did not report any rental income in 2016 or 2017. The Organization also did not provide a lease agreement for this arrangement.

The Organization informed the prior auditor, Eric Westra, that it fundraised by selling chocolates but did not report income from the sales. There was no documentation provided to support the revenue generated from this activity or the expenses incurred. The pastor estimated the amount of revenue to be \$1,000 per year.

The Organization indicated that it held a fundraising dinner in 2017 but no fundraising revenue was reported. Also noted⁷, the expenses do not appear to have been reported.

c) Other deficiencies

The audit revealed that wages of \$14,000 paid to management was included in the financial statements but were not included in the T3010 as a program cost.

Subsection 200(1) of the Act states: "Subject to subsection (1.1), every person who makes a payment described in subsection 153(1) of the Act (including an amount paid that is described in subparagraph 153(1)(a)(ii) of the Act) shall make an information return in prescribed form in respect of the payment unless an information return in respect of the payment has been made under sections 202, 214, 237 or 238." Similarly, subsection 200(2) addresses payments where T4As are to be issued.

The audit noted there was an inconsistency in the financial information reported from year to year. It also noted that the Organization had reported occupancy and rent costs of \$33,017 in 2016 but \$0 in 2017.

The Organization reported travel and vehicle expenses of \$1,771 in 2016 and \$10,436 and 2017. There was no mileage log to determine the personal usage versus the charitable usage of the vehicle or how the travel related to the charitable activities. The audit had revealed that trips taken by the pastor were not recorded under Travel expenses but were instead reimbursed to him.

The audit had noted above that some of the expenditures reimbursed to the director (\$5,165) appears to include items that may be personal in nature but that the amounts appears immaterial.

⁷ The audit revealed that the Organization had incurred expenses of \$3,362 for the fundraising dinner in 2017. The amount was not reported on the financial statements or the T3010.

The Organization was unable to provide an explanation as to why so many of its books and records could not be made available for review. The Organization did represent that the Secretary had misplaced the 2017 minutes.

A registered charity must keep adequate books and records. A charity's books and records must allow the CRA to:

- Verify revenues, including all charitable donations received;
- Verify that resources are spent on charitable programs ; and
- Verify that the charity's purposes and activities continue to be charitable.

Failure to maintain adequate books and records was an issue in the two prior audits where the Organization agreed on both occasions to undertake corrective measures to become compliant. However, the present audit determined ongoing compliance issues with respect to the Organization's books and records. The information provided did not reconcile to the reported revenue and the lack of records did not permit the verification that the reported expenditures are in furtherance of the Organization's charitable activities.

Conclusion

Accordingly, it is our view that the Organization failed to maintain adequate books and records and to provide complete access to its records for our inspection. Under paragraph 168(1)(e) of the Act, the Minister may, by registered mail, give notice to the charity that the Minister proposes to revoke its registration because it fails to comply with or contravenes section 230 of the Act dealing with books and records. It is our position the Organization has failed to comply with and has contravened section 230 of the Act. For this reason alone there may be grounds to revoke the registered status of the Organization.

Additionally, due to the serious nature of the non-compliance issues identified and described above, it is our view that the Organization should be suspended, for failing to maintain proper books and records, under paragraph 188.2(2)(a) of the Act which states that:

The Minister may give notice by registered mail to a person referred to in any of paragraphs (a) to (c) of the definition qualified donee in subsection 149.1(1) that the authority of the person to issue an official donation receipt referred to in Part XXXV of the Income Tax Regulations is suspended for one year from the day that is seven days after the day on which the notice is mailed

- (a) if the person contravenes any of sections 230 to 231.5

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

Paragraph 230(2)(b) of the Act provides that every registered charity shall “keep records and books of account [...] at an address in Canada recorded with the Minister [...] [including] a duplicate⁸ of each receipt containing prescribed information for a donation received by it”

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

Subsection 3501(3) of the Regulations provides that official donation receipts can bear a facsimile signature under the following conditions, “(a) distinctively imprinted with the name, address in Canada and registration number of the organization, (b) serially numbered by a printing press or numbering machine, and (c) kept at the place referred to in subsection 230(2) of the Act until completed as an official receipt.” Section 30 of the Canada Evidence Act and common law⁹ sources suggest that a court would favourably consider the argument that a duplicate receipt includes computer-generated copies, that is, the subsequent printed receipt of a computer recording, or soft copy, is a duplicate of the original receipt.

Audit findings

During the current audit review, we determined the Organization does not issue receipts according to the Act and its Regulations. Our findings showed the following:

- Serial numbers were not unique to other fiscal periods;
- The dates when the donations were received were not indicated;
- The CRA website address canada.ca/charities-giving was not found; and
- The place or locality from where the receipt was issued was not identified.

It is our position that the Organization does not issue receipts according to the Act and its Regulations. For this reason alone, there may be grounds for revocation of the Organization’s charitable status under paragraph 168(1)(d) of the Act.

Conclusion

It is our view that the Organization failed to maintain adequate books and records and to provide complete access to its records for our inspection. Under paragraph 168(1)(e) of the Act, the Minister may, by registered mail, give notice to the charity that the Minister proposes to revoke its registration because it fails to comply with or contravenes section 230

⁸ The definitions found in general language dictionaries and in law dictionaries are sufficiently broad to include a “duplicate of a receipt” in almost any form.

⁹ Linden, J in *R v McMullen* (1978), 5 CR (3d) 218 at p 29 (Ont HC): “[i]n my view, a computer print-out is a copy of what is contained within the computer, whether it be on tape or disc, though it is in different form than the original record. Though the technology changes, the underlying principles are the same.”

of the Act dealing with books and records. It is our position the Organization has failed to comply with and has contravened section 230 of the Act. For this reason alone there may be grounds to revoke the registered status of the Organization.

Additionally, due to the serious nature of the non-compliance issues identified and described above, it is our view that the Organization should receive a financial penalty, for issuing donation receipts not in accordance with the Act and/or its Regulations, under subsection 188.1(7) of the Act which states that:

every registered charity that issues, in a taxation year, a receipt for a gift otherwise than in accordance with this Act and the regulations is liable for the taxation year to a penalty equal to 5% of the amount reported on the receipt as representing the amount in respect of which a taxpayer may claim a deduction under subsection 110.1(1) or a credit under subsection 118.1(3)."

We calculate the proposed financial penalty as follows:

2017 donation receipt summary total = \$96,893.74 x 5% = \$4,844.69

2016 donation receipt summary total = \$69,040.77 x 5% = \$3,450.04

3. Failure to complete an accurate registered charity information return as and when required by the Act and/or its Regulations

Subsection 149.1(14) of the Act states that:

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

It is the responsibility of the Organization to ensure that the information provided in its T3010 returns, schedules and statements, is factual and complete in every respect. A charity is not meeting its requirements to file an information return in prescribed form if it fails to exercise due care with respect to ensuring the accuracy thereof. The Federal Court of Appeal has confirmed that major inaccuracies in a T3010 are a sufficient basis for revocation.¹⁰

¹⁰ Opportunities for the Disabled Foundation v MNR, 2016 FCA 94 at paras 48-51.

Audit findings

During our current audit review we noted the following missing or incorrect information on the 2016 NS 2017 T3010, Registered Charity Information Returns:

FYE 2016-01-31:

- Line 2530 should have been checked – the church has a collection plate;
- Line 2660 should identify chocolate sales that were not reported as a fundraising activity;
- Line 4350 – Total Liabilities should be \$585,000 per financial statements;
- Lines 5000 and 5010 do not appear to be allocated correctly;
- The website address of the church is missing on page one;
- There is no signature in the certification section;
- There was \$24,396.00 of fundraising revenue on Line 4630 that should be part of tax-receipted donations;
- The sum of the donation receipts does not match the amount entered on Line 4500 of the T3010 (\$23,190.23 discrepancy in 2016);
- The physical address of the charity is listed as the [REDACTED]; and
- T1235 – Directors Worksheet – Birthdates are missing for four directors, there is no start or end date for the Directors defined and the Treasurer's last name is spelled wrong.

FYE 2017-01-31:

- Line 2530 should have been checked – the church has a collection plate;
- Line 2660 should identify chocolate sales that were not reported as a fundraising activity;
- Lines 5000 and 5010 do not appear to be allocated correctly;
- Line 5050 should be \$2,034 because this amount was gifted to a qualified donee;
- The website address of the church is missing on page one;
- There is no signature in the certification section;
- The sum of the donation receipts does not match the amount entered on Line 4500 of the T3010 (\$23,297.26 discrepancy in 2017);
- The physical address of the charity is listed as the [REDACTED]
- Section D was completed instead of Section 6 (revenue exceeds \$100,000);
- T1235 – Directors Worksheet – Birthdates are missing for four directors, there is no start or end date for the Directors defined and the Treasurer's last name is spelled wrong; and
- T1236 – Gifts to Qualified Donees – There was \$2,034 gifted to the Sunset Point Christian Camp Foundation (a qualified donee) but no T1236 was included with the T3010 charity return.

Conclusion

Under paragraph 168(1)(c) of the Act, the Minister may, by registered mail, give notice to the charity that the Minister proposes to revoke its registration because the charity fails to file a Registered Charity Information Return as and when required under the Act or a Regulation. For this reason, it appears that there may be grounds for revocation of the charitable status of the Organization.

Additionally, under paragraph 188.2(2.1), if information is not reported on the T3010 Charitable Information Return, the charity can be suspended until the Minister notifies the charity that she has received the required information in prescribed form. The suspension starts on the day that is 7 days after the day on which the notice is mailed.

The Organization's options:

a) Respond

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

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

b) Do not respond

The Organization may choose not to respond. In that case, the Director General of the Charities Directorate may proceed with the application of sanctions described in sections 188.2 of the Act or give 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 the Organization appoints a third party to represent it in this matter, send us a written request with the individual's name, the individual's contact information, and explicit authorization that the individual can discuss the file with us.

If you have any questions or require further information or clarification, please contact me at the number indicated below. My team leader, Francis Yu, may also be reached at 587-489-2402.

Yours sincerely,

A large black rectangular redaction box covering a signature.

Dec 6/91

Bronwyn MacKinnon
Charities Auditor – Audit Division
Edmonton Tax Services Office

Telephone: 587-489-2400

Toll Free: 1-800-267-2384 (Charities Directorate)

Facsimile: 780-495-2873

Address: Suite 10, 9700 Jasper Avenue NW
Edmonton AB T5J 4C8

Website: www.canada.ca/charities-giving

Appendix A

Comments on Representations – Refuge Temple Apostolic Church

The audit conducted by the Canada Revenue Agency (CRA) for the period February 1, 2015 to January 31, 2017, revealed that Refuge Temple Apostolic Church (the Organization) failed to:

- maintain adequate books and records as required;
- complete an accurate registered charity information return as and when required by the Act and/or its Regulations;
- issue donation receipts in accordance with the Act and/or its Regulations; and
- issue T4 for benefits conferred on the pastor.

For each of these reasons, we maintain our position that the non-compliance issues identified during our audit represents a serious breach of the requirements of the Income Tax Act (Act). As such, it remains our opinion that the Organization's charitable registration should be revoked.

Repeated Non-compliance

This is the Organization's third audit, in which the same or similar issues of non-compliance revealed in prior audits are present. This demonstrates a pattern of non-compliant behavior, and the Organization's unwillingness or inability to satisfy the requirements of the law with respect to operating a registered charity.

The two prior audits resulted in the issuance of compliance agreements.

The first audit was conducted for the period ended December 31, 2007. It was closed with a compliance agreement, which detailed the following areas of non-compliance:

- Violation of the Organization's status as 50% of the board members were related and not dealing at arm's length;
- Failure to maintain adequate books and records as required;
- Donation receipts issued not in accordance with the Act and/or its Regulations; and
- T4A slips were not issued for honorariums paid in excess of \$500 per year.

The CRA detailed the corrective measures to be taken for all areas of non-compliance identified in the compliance agreement. The compliance agreement was signed by the Organization on May 31, 2008. Along with the compliance agreement, the Organization sent a letter to the CRA in which it stated that "the areas of non-compliance was not deliberate but rather related to lack of knowledge. I do take full responsibility and have already contacted the accountants to assist us further. I plan to complete each corrective action as laid out in your correspondence."

The second audit revealed the following areas of non-compliance:

- Failure to maintain adequate books and records as required;
- Donation receipts issued not in accordance with the Act and/or its Regulations;
- T4A slips were not issued for honorariums paid in excess of \$500 per year; and
- Failure to issue T4 for benefits conferred on the pastor.

Again, a compliance agreement was issued, detailing corrective measures to be taken to address all areas of non-compliance. This agreement was signed by the Organization on February 12, 2014, and sent to us along with a letter stating, “All corrective measures will be adhered and followed as it is difficult to retrieve the past.”[sic]

However, the current audit revealed that none of the corrective measures of the second audit were implemented.

Based on the audit findings and the fact the Organization did not implement the corrective measures set out in the previous compliance agreement, we issued an administrative fairness letter (AFL) dated December 6, 2019. The AFL allowed the Organization the opportunity to provide representations as to why its charitable registration should not be revoked. The balance of this letter outlines the issues of non-compliance, the Organization representations to our concerns, our analysis of the representations and our conclusion.

Failure to maintain adequate books and records as required

In our letter of December 6, 2019, we outlined the following concerns with respect to the Organization’s books and records.

a) Lack of supporting documentation

The following inaccuracies and areas of concern were found within the books and records:

- No receipts or invoices were provided to support expenditures;
- No duplicate donation receipts were provided for the 2016 & 2017 fiscal periods;
- No credit card statements or supporting documentation were provided to support expenditures reimbursed to directors;
- Bank statements were missing for the business bank account during both fiscal years and copies of random cancelled cheques were not provided;
- Meeting minutes for 2017 were missing;
- No rental income was reported for the space on the upper floor rented to an accounting firm and no lease agreement was provided;
- Fundraising revenues from chocolate sales were not reported;
- A mileage log was not maintained to determine the business to personal use of the [REDACTED]
- There was \$14,000 of wages paid to management in the 2017 financial statements that should have been part of program costs;
- Inconsistent expenditure amounts from year to year (i.e., \$33,017.00 rent and occupancy expenditures in 2016 and none in 2017); and
- No weekly tithe cash count sheets and offering envelopes provided.

b) Revenue does not reconcile / Unreported revenue

The audit revealed that the total reported revenue did not reconcile to the records.

The Organization reported total revenue of \$92,231 and \$120,191 in 2016 and 2017, respectively, on the T3010 information return. The sole source of revenue was reported as being

tax-receipted gifts. The donation receipt summary provided by the Organization indicated total donations to be \$69,044.77 in 2016 and \$96,893.74 in 2017.

The Organization did not provide duplicate copies of the donation receipts it issued during the 2016 and 2017 fiscal periods for review. Therefore, the reported tax-receipted revenue could not be reconciled to source documentation.

The banking records provided were incomplete and, as such, the information could not be reconciled to the books and records to verify the reported revenue. The Organization only provided business bank statements for January 2016 and for the period July to October 2016.

The audit revealed that the Organization had rented space on the upper floor of its building to an accounting firm but did not report any rental income in 2016 or 2017. The Organization also did not provide a lease agreement for this arrangement.

The Organization informed the prior auditor, Eric Westra, that it fundraised by selling chocolates. The audit revealed that the Organization did not report income from the sales. There was no documentation provided to support the revenue generated from this activity or support the expenses incurred. The pastor estimated the amount of revenue to be \$1,000 per year.

The Organization indicated that it held a fundraising dinner in 2017 but no fundraising revenue was reported. Also noted, the expenses do not appear to have been reported.

c) Other deficiencies

The audit revealed that wages of \$14,000 paid to management were included in the financial statements but were not included in the T3010 as a program cost.

Regulation 200(1) of the Act states: "Subject to subsection (1.1), every person who makes a payment described in subsection 153(1) of the Act (including an amount paid that is described in subparagraph 153(1)(a)(ii) of the Act) shall make an information return in prescribed form in respect of the payment unless an information return in respect of the payment has been made under sections 202, 214, 237 or 238." Similarly, Regulation 200(2) addresses payments where T4As are to be issued.

The audit noted there was an inconsistency in the financial information reported from year to year. It also noted that the Organization had reported occupancy and rent costs of \$33,017 in 2016 but \$0 in 2017.

The Organization reported travel and vehicle expenses of \$1,771 in 2016 and \$10,436 and 2017. There was no mileage log to determine the personal usage versus the charitable usage of the vehicle owned by the Organization or how the travel related to the charitable activities. The audit had revealed that trips taken by the pastor were not recorded under travel expenses but were instead reimbursed to him.

The audit had noted above that some of the expenditures reimbursed to the director (\$5,165) appear to include items that may be personal in nature. The amounts appeared immaterial.

The Organization was unable to provide an explanation as to why so many of its books and records could not be made available for review. The Organization did represent that the Secretary had misplaced the 2017 minutes.

The Organization's responses

- The Organization has hired a monthly bookkeeper to ensure the books and records are maintained in a proper manner in the future.
- All current expenditures are matched to receipts or invoices with notes relating to what the expenditure is for and associated to a cheque/transaction number.
- Expenditures are recorded in [REDACTED] church accounting software to maintain accurate, long-term recording of expenditures.
- All donors have been requested to provide donations via donation envelope/receipt.
- All donation receipts are physically stored in archives and each donor's receipt is recorded in accounting software denoting name, address, and amount of each donation.
- Directors are currently being reimbursed for expenditures which have prior board approval or fall into category of day-to-day expenses. In both cases, directors must provide supporting documentation for reimbursement and the transaction recorded in accounting software.
- Bank statements and cancelled cheques are available for 2018-2019.
- All current fundraising drives are tallied and recorded electronically denoting drive type and amount raised.
- All meeting minutes, both board and general assembly, are recorded and stored physically and electronically in 2019.
- With the advent of accounting software and finance team monitoring transactions, current expenditures are either standard operational expenses or acquisition of equipment both of which are documented and recorded in the financial system.
- The finance committee currently does a cash count sheet for every service and offering envelopes. Cash count sheets are physically stored for cross reference of accounting records.
- [REDACTED] Robert Barnett's [REDACTED]. In the future, he will be able to spend more time on the charity books and records rather than [REDACTED]

Our analysis and conclusion

Notwithstanding its representation, the Organization has not provided any supporting documentation and records to address the concerns as revealed in the audit. Instead, the Organization has proposed that it would be in compliance with the requirement to maintain books and records on a going forward basis.

The CRA recognizes that the steps outlined above would address some of the non-compliance concerns with respect to books and records revealed during the audit. However, we have also

noted that the Organization has a history of not following through on corrective measures to address similar issues of non-compliance as agreed to in two prior audits.

It is our position that the Organization has failed to comply with and has contravened section 230 of the Act. The Organization has failed to maintain adequate books and records to verify the information contained within its Registered Charity Information Return and its financial statements. For this reason alone, there are grounds to revoke the registered status of the Organization under paragraph 168(1)(e) of the Act.

Issued official donation receipts not in accordance with the Act and/or its Regulations

The audit revealed that the Organization did not issue official donation receipts in accordance with the Act and its Regulations as follows:

- Serial numbers were not unique in each fiscal period;
- The dates when donations were received were not indicated;
- The CRA website address canada.ca/charities-giving was not found; and
- The place or locality from where the receipt was issued was not identified.

The Organization's response

The Organization did not provide any representation in respect of the missing elements on the official donation receipts.

Our analysis and conclusion

It remains our position that the Organization does not issue official donation receipts according to the Act and its Regulations. For this reason, there are grounds for revocation of the Organization's charitable status under paragraph 168(1)(d) of the Act.

Failed to issue T4 benefits conferred on the pastor

The audit revealed that there were some personal expenses for purchases at such places as [REDACTED] and numerous grocery stores. As the amounts were immaterial we did not include concerns regarding taxable benefits in our December 6, 2019 letter. However, the representations that the Organization provided, as described below, leave us with concerns which will be addressed in the CRA conclusions.

The Organization's responses

- Rental cheques were written to Robert Barnett not to Refuge Temple Apostolic Church and as such Robert Barnett cashed the cheques. T4 for these amounts will be issued to Robert Barnett as pass-through income.
- Currently there are no wages being paid out. All honorarium recipients will have a T4A issued to them and out of country recipients will have taxes withheld.

Our analysis and conclusion

The rental income received for commercial space rented in the Organization's building is income of the Organization and should have been reported on its Form T3010, Registered Charity Information Return, however, it was not. It was also not reported as rental income in the 2017 general ledger. Instead the funds were diverted from the Organization to Robert Barnett by way of cheques.

This resulted in the Organization materially under-reporting its revenues. As well, Mr. Barnett received a taxable benefit that was not added to his T4 income.

Additionally, we find that as the Organization diverted funds for the personal benefit of Mr. Barnett, we have no assurances that honorariums in excess of \$500 were not issued to individuals without T4As being issued or amounts being recorded in the general ledger.

Given that the Organization has continued to provide personal benefits to individuals without issuing T4/T4A slips we find there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(b) of the Act.

Failed to complete an accurate registered charity information return as and when required by the Act and/or its Regulations

The audit had revealed the following missing or incorrect information on the 2016 and 2017 T3010:

FYE 2016-01-31:

- Line 2530 should have been checked – the church has a collection plate.
- Line 2660 should identify chocolate sales that were not reported as a fundraising activity.
- Line 4350 – Total Liabilities should be \$585,000 per financial statements.
- Lines 5000 and 5010 do not appear to be allocated correctly.
- The website address of the church is missing on page one.
- There is no signature in the certification section.
- There was \$24,396.00 of fundraising revenue on Line 4630 that should be part of tax-receipted donations.
- The sum of the donation receipts does not match the amount entered on Line 4500 of the T3010 (\$23,190.23 discrepancy in 2016).
- The physical address of the charity is listed as the [REDACTED]
- T1235 – Directors Worksheet – Birthdates are missing for four directors, there is no start or end date for the Directors defined and the Treasurer's last name is spelled wrong.

FYE 2017-01-31:

- Line 2530 should have been checked – the church has a collection plate.
- Line 2660 should identify chocolate sales that were not reported as a fundraising activity.
- Lines 5000 and 5010 do not appear to be allocated correctly.
- Line 5050 should be \$2,034 because this amount was gifted to a qualified donee.
- The website address of the church is missing on page one.

- There is no signature in the certification section.
- The sum of the donation receipts does not match the amount entered on Line 4500 of the T3010 (\$23,297.26 discrepancy in 2017).
- The physical address of the charity is listed as the [REDACTED]
- Section D was completed instead of Section 6 (revenue exceeds \$100,000).
- T1235 – Directors Worksheet – Birthdates are missing for four directors, there is no start or end date for the Directors defined and the Treasurer's last name is spelled wrong.
- T1236 – Gifts to Qualified Donees – There was \$2,034 gifted to the Sunset Point Christian Camp Foundation (a qualified donee) but no T1236 was included with the T3010 charity return.

The Organization's responses

The Organization did not provide any representation in respect of the non-compliance issues found on the T3010 Charitable Information Returns.

Our analysis and conclusion

It remains our position that the Organization failed to complete accurate registered charity information return as and when required by the Act and/or its Regulations. For this reason, there may be grounds to revoke the Organization's charitable registration under paragraph 168(1)(c) of the Act.

APPENDIX B

Income Tax Act references

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.