

February 1, 2024

**REGISTERED MAIL**

Robert Halpert  
President  
Canadian Friends of Lelov Yeshivah  
6249 Avenue de Vimy  
Montreal QC H3S 2R4

BN: 888426475RR0001  
Case number: 47391541

Dear Robert Halpert:

**Subject: Notice of intention to revoke**

We are writing with respect to our letter dated February 13, 2023 (copy enclosed), in which Canadian Friends of Lelov Yeshivah (the Organization) was invited to respond to the findings of the audit conducted by the Canada Revenue Agency (CRA) for the period from January 01, 2018 to December 31, 2019. 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.

In its letter of February 15, 2023, the Organization stated “ I have read your letter of February 13, 2023. As discussed on the phone and after reading the contents of said letter, I have no further information that I can forward to you concerning the issues”. Based on the Organization’s unwillingness to provide any information to address the concerns outlined in our previous letter, it remains our view that the Organization should be revoked for the reasons given.

**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 lacked direction and control over the use of its resources, gifted to non-qualified donees, failed to maintain adequate books and records, failed to issue receipts in accordance with the Act and/or its Regulations and failed to file an information return as and when required by the Act and/or its Regulations. This non-compliance constitutes a serious breach of the requirements for registration. 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 13, 2023, and pursuant to subsection 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.

<b>Business number</b>	<b>Name</b>
888426475RR0001	Canadian Friends of Lelov Yeshivah Montreal QC

As noted in our letter dated February 13, 2023, we informed you that the CRA may revoke the charitable registration of the Organization. We further informed you that the CRA may, after the expiration of 30 days from the date of the mailing of the notice, publish a copy of the notice in the Canada Gazette, and on the date of that publication, the Organization's registration would be revoked.

After considering the Organization's response, this letter is to inform you that the CRA has decided to issue a notice of intention to revoke the Organization's registration and will publish a copy of the notice in the *Canada Gazette* immediately after the expiration of **30 days** from the date of mailing of this notice pursuant to paragraph 168(2)(b) of the Act. It was found that the Organization demonstrated repeated and egregious non-compliance, including lacking direction and control over the use of its resources, gifting to non-qualified donees, failure to maintain adequate books and records, failure to issue receipts in accordance with the Act and/or its Regulations, and failure to file an information return as and when required by the Act and/or its Regulations.

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 must be sent to:

Assistant Commissioner  
Appeals Intake Centre  
Post Office Box 2006, Station Main  
Newmarket ON L3Y 0E9

However, please note that even if the Organization files a notice of objection with the CRA Appeals Branch, this will not prevent the CRA from publishing the notice of revocation in the *Canada Gazette* immediately after the expiration of 30 days from the date of mailing of this notice.

The Organization has the option of filing an application with the Federal Court of Appeal (FCA), as indicated in paragraph 168(2)(b) of the Act, to seek an order staying publication of the notice of revocation in the *Canada Gazette*. The FCA, upon reviewing this application, may extend the 30-day period during which the CRA cannot publish a copy of the notice.<sup>1</sup>

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

### **Consequences of revocation**

As of the effective date of revocation:

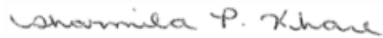
- a) the Organization will no longer be exempt from Part I tax as a registered charity and **will no longer be permitted to issue official donation receipts**. This means that gifts made to the Organization would not be allowable as tax credits to individual donors or as allowable deductions to corporate donors under subsection 118.1(3) and paragraph 110.1(1)(a) of the Act respectively;
- b) by virtue of section 188 of the Act, the Organization will be required to pay a tax within one year from the date of the notice of intention to revoke. This revocation tax is calculated on Form T2046, Tax Return where Registration of a Charity is revoked. Form T2046 must be filed, and the tax paid, on or before the day that is one year from the date of the notice of intention to revoke. The relevant provisions of the Act concerning the tax applicable to revoked charities can also be found in Appendix A. Form T2046 and the related Guide RC4424, Completing the Tax Return where Registration of a Charity is revoked, are available on our website at **[canada.ca/charities-giving](http://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 that may result in significant changes in how the Organization calculates its Goods and Services Tax/Harmonized Sales Tax (GST/HST) to be collected, input tax credits, and rebate entitlements. If you have any questions about your GST/HST obligations and entitlements, please go to **[canada.ca/gst-hst](http://canada.ca/gst-hst)** or call GST/HST Rulings at 1-888-830-7747 (Quebec) or 1-800-959-8287 (rest of Canada).

---

<sup>1</sup> Unless an order from the FCA is issued extending the 30-day period, the Minister may publish the notice of revocation in the *Canada Gazette* after the 30-day period has elapsed.

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,



Sharmila Khare  
Director General  
Charities Directorate

Enclosures

- CRA letter dated February 13, 2023
- Organization's representations dated February 15, 2023
- Appendix A, Relevant provisions of the Act

c.c.: Mendy Berkowitz



February 13, 2023

Robert Halpert  
President  
Canadian Friends of Lelov Yeshivah  
6249 Avenue de Vimy  
Montreal QC H3S 2R4

BN: 888426475RR0001  
File #: 1071489  
Case number: 47391541

Dear Robert Halpert:

**Subject: Audit of Canadian Friends of Lelov Yeshivah**

This letter results from the audit of the Canadian Friends of Lelov Yeshivah (the Organization) conducted by the Canada Revenue Agency (CRA). The audit related to the operations of the Organization for the period from January 1, 2018, to December 31, 2019.

On February 13, 2023, the Organization was advised that the CRA identified specific areas of non-compliance with the provisions of the Income Tax Act and its Regulations in the following areas:

AREAS OF NON-COMPLIANCE		
	Issue	Reference
1.	Failed to devote resources to charitable activities carried on by the Organization itself 1.1 Lack of direction and control over its own resources/Gifted to non-qualified donees 1.2 Provided a personal benefit to a proprietor, member, shareholder, trustee or settlor of the Organization	149.1(1), 149.1(2)(c), 168(1)(b)
2.	Failed to maintain adequate books and records	230(2), 168(1)(e), 188.2(2)(a)
3.	Failed to issue donation receipts in accordance with the Act and/or its Regulations	168(1)(d), Regulations 3500 and 3501
4.	Failed to file an information return as and when required by the Act and/or its Regulations 4.1 Failed to report accurate information in Form T3010s 4.2 Failed to issue an information return for amounts paid (T4, T4A) - failed to prepare proper documentation for payments to an employee/director	149.1(14), 168(1)(c)

This letter describes the areas of non-compliance identified by the CRA relating to the legislative and common law requirements that apply to registered charities, and offers the Organization an opportunity to respond and present additional information and explain why its registered status should not be revoked. The Organization must comply with the law; if it does not, its registered status may be revoked in the manner described in section 168 of the Act.

### General legal principles

In order to maintain charitable registration under the Act, Canadian law requires that an organization demonstrate that it is constituted and operated exclusively for charitable purposes (or objects) and that it devotes its resources to charitable activities carried on by the organization itself in furtherance thereof.<sup>1</sup> To be exclusively charitable, a purpose must fall within one or more of the following four categories (also known as “heads”) of charity<sup>2</sup> and deliver a public benefit:

- (1) relief of poverty;
- (2) advancement of education;
- (3) advancement of religion; and
- (4) other purposes beneficial to the community as a whole in a way which the law regards as charitable.

An organization’s purposes must fall within one or more of these categories to be considered for registration as a charity. The formal purposes as set out in an organization’s governing document must be clear and precise so as to reflect exclusively charitable purposes.

The public benefit requirement involves a two-part test:

- The first part of the test requires the delivery of a **benefit** that is recognizable and capable of being proved, and socially useful. To be recognizable and capable of being proved, a benefit must generally be tangible or objectively measurable.

---

<sup>1</sup> See subsection 149.1(1) of the Act, which requires that a charitable organization devote all of its resources to “charitable activities carried on by the organization itself” and *Vancouver Society of Immigrant and Visible Minority Women v MNR*, [1999] 1 SCR 10, 1999 CanLII 704 (SCC) at paras 156-159. A registered charity may also devote resources to activities that, while not charitable in and of themselves, are necessary to accomplish their charitable purposes (such as expenditures on fundraising and administration). However, any resources so devoted must be within acceptable legal parameters and the associated activities must not become ends in and of themselves.

<sup>2</sup> The Act does not define charity or what is charitable. The exception is subsection 149.1(1) which defines charitable purposes as including “the disbursement of funds to qualified donees.” The CRA must therefore rely on the common law definition, which sets out four broad categories of charity. The four broad charitable purpose categories, also known as the four heads of charity, were outlined by Lord Macnaghten in *Commissioners for Special Purposes of the Income Tax v Pemsel*, [1891] AC 531 (PC). The classification approach was explicitly approved of by the Supreme Court of Canada in *Guaranty Trust Co of Canada v Minister of National Revenue*, [1967] SCR 133, and confirmed in *Vancouver Society of Immigrant and Visible Minority Women v MNR*, [1999] 1 SCR 10, 1999 CanLII 704 (SCC).

- Benefits may be measurable or intangible. Benefits that are not tangible or objectively measurable should be shown to be valuable or approved by the common understanding of enlightened opinion for the time being.<sup>3</sup> In most cases, the benefit should be a necessary and reasonably direct result of how the purpose will be achieved.<sup>4</sup> An assumed prospect or possibility of gain that is vague, indescribable or uncertain, or incapable of proof, cannot be said to provide a charitable benefit<sup>5</sup>.
- The second part of the test requires the benefit be directed to the **public** or a sufficient section of the public. This means a registered charity cannot:
  - have an eligible beneficiary group that is negligible in size, or restricted based on criteria that are not justified based on the charitable purpose(s);  
Or
  - provide an unacceptable private benefit. Typically, a private benefit is a benefit provided to a person or organization that is not a charitable beneficiary, or to a charitable beneficiary that exceeds the bounds of charity.  
A private benefit will usually be acceptable if it is incidental, meaning it is necessary, reasonable, and not disproportionate to the resulting public benefit.<sup>6</sup>

The CRA must be satisfied that an organization's activities directly further charitable purposes in a manner permitted under the Act. In making a determination, we are obliged to take into account all relevant information. Accordingly, the current audit encompassed an enquiry into all aspects of the Organization's operations. The fact that some of the areas of non-compliance identified in this letter may, or may not, have been evaluated in preceding audits does not preclude the need for compliance with existing legal requirements. Furthermore, the CRA may take a position that differs from that reached previously based on reconsideration of the pertinent facts and law.<sup>7</sup>

---

<sup>3</sup> For more information about public benefit, see CRA Policy statement CPS-024, Guidelines for registering a charity: Meeting the public benefit test. See also generally *British Columbia (Assessor of Area #09 - Vancouver) v Arts Umbrella*, 2008 BCCA 103; and *Vancouver Society of Immigrant and Visible Minority Women v MNR*, [1999] 1 SCR 10, 1999 CanLII 704 (SCC).

<sup>4</sup> For more information about public benefit, see CRA Policy statement CPS-024, Guidelines for registering a charity: Meeting the public benefit test, and CRA Guidance CG-019, How to draft purposes for charitable registration. See also; *Commissioners for Special Purposes of the Income Tax v Pe msel*, [1891] AC 531 (PC) at 583.

<sup>5</sup> *Co-operative College of Canada v. Saskatchewan (Human Rights Commission)*, 1975 CanLII 808 (SKCA) at para 19; *Vancouver Society of Immigrant and Visible Minority Women v MNR*, [1999] 1 SCR 10, 1999 CanLII 704 (SCC) at para 202; for more information about charitable purposes see CRA Guidance CG-019, How to draft purposes for charitable registration at para 19.

<sup>6</sup> For more information about public benefit, see CRA Policy statement CPS-024, Guidelines for registering a charity: Meeting the public benefit test.

<sup>7</sup> *Canadian Magen David Adom for Israel v MNR*, 2002 FCA 323 at para 69.

**Background**

The Organization was registered effective July 10, 1995, as a charitable organization, with the following purpose listed in the By-Laws dated July 10, 1995:

To provide scholarships to deserving students to enable them to follow post-graduate Talmudic courses at the Yeshivath Lelov in Jerusalem.

The Organization's activity at the time of registration was to assist promising young men between the ages of 18-25, who expressed a desire to continue Talmudic studies and required financial assistance.

The registration was based on the information supplied by the Organization and on the understanding that it would be carrying out the activities listed in its application.

**Previous non-compliance**

The Organization was the subject of a previous audit for the periods from January 1, 2008, to December 31, 2009. The audit found that the Organization failed to file the Form T3010 Registered Charity Information Return on time, completed the Form T3010 inaccurately, failed to maintain direction and control over the use of its funds and resources, failed to devote resources to its own charitable activities, was resourcing non-qualified donees, failed to issue T4 and T4A slips when required, and issued official donation receipts (ODRs) containing irregularities.

As a result, the CRA entered into a Compliance Agreement (copy attached) signed by the Organization's President on October 30, 2013, which detailed the necessary corrective measures that the Organization would take in order to demonstrate its compliance with the Act and Legislation regarding the operation of a registered charity.

**Current audit findings**

The current audit found that the Organization has not rectified the issues of non-compliance identified in the above-mentioned compliance agreement. Based on the issues of non-compliance identified during the current audit, we remain concerned about the Organization's compliance with the requirements of charitable registration.

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

**Identified areas of non-compliance****1. Failed to devote resources to charitable activities carried on by the Organization itself**

Subsection 149.1(1) of the Act defines a charitable organization, which reads in part as:



**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 or to making qualifying disbursements<sup>8</sup> [...]

To comply with the requirement that a registered charity devote all of its resources to charitable activities the Act allows a registered charity to use its resources (funds, personnel, and property) inside or outside Canada in only two ways:

- for its own charitable activities – undertaken by the charity itself under its continued supervision, direction and control;<sup>9</sup> and
- for making qualifying disbursements through gifting to qualified donees<sup>10</sup> or granting<sup>11</sup> to non-qualified donees (grantee organizations)<sup>12</sup> as defined in the Act.

A **qualified donee** means a donee defined in subsection 149.1(1) of the Act, as follows:

- a registered charity (including a registered national arts service organization);
- a registered journalism organization;
- a registered Canadian amateur athletic association;
- a registered housing corporation resident in Canada constituted exclusively to provide low-cost housing for the aged;
- a registered Canadian municipality;
- a registered municipal or public body performing a function of government in Canada;
- a registered university outside Canada, the student body of which ordinarily includes students from Canada;
- a registered foreign charity to which Her Majesty in right of Canada has made a gift;
- Her Majesty in right of Canada or a province, or a territory; and
- the United Nations or an agency of the United Nations.

As the Act specifically states what constitutes a qualified donee, entities not expressly stated in this list are not considered qualified donees.

As stated above, the Act allows a registered charity to carry out its charitable purposes in two ways, by making qualifying disbursements, which are gifts to qualified donees

---

<sup>8</sup> See Subsection 149.1(1) of the Income Tax Act for a definition of qualifying disbursement.

<sup>9</sup> Canadian Committee for the Tel Aviv Foundation v. Canada, 2002 FCA 72 (CanLII) at para 31.

<sup>10</sup> See Subsection 149.1(1) of the Income Tax Act for a list of qualified donees.

<sup>11</sup> A grant includes both monetary and non-monetary resources. A charity's resources include all its physical and financial resources. For example, this includes its staff, intellectual property, and real property.

<sup>12</sup> As defined in Subsection 149.1(1) of the Income Tax Act, a grantee organization includes a person, club, society, association or organization or prescribed entity, but does not include a qualified donee.

(usually other registered charities)<sup>13</sup> or grants to grantee organizations (grantees), and by carrying on its own charitable activities under its direction and control. Carrying on one's own activities implies that the charity is an active and controlling participant in a program or project that directly achieves a charitable purpose.

A registered charity should consider at the outset whether it will carry on its own activities using its staff, including volunteers, directors, and employees, through an intermediary (for example, a private contractor) acting on its behalf, or by making qualifying disbursements to qualified donees or grantees. When using its own staff or working through an intermediary, a charity must direct and control the use of its resources. Although it may delegate the responsibility for day-to-day operating decisions to an intermediary, it cannot act as a conduit that merely funnels resources to an organization that is not a qualified donee. A charity's resources include all its physical and financial resources as well as its staff and volunteers.<sup>14</sup>

A registered charity must be careful about how it carries on its activities and ensure that it maintains sufficient direction and control over its resources. When working with an intermediary, the absence of appropriately structured arrangements, such as agency agreements, and sufficient documentation in its books and records, to establish the necessary direction and control over its funds and purported activities, indicates the charity is gifting its funds to non-qualified donees, which is not a charitable activity and contrary to the provisions of the Act.

In contrast to the relatively passive transfer of money or other resources involved in making gifts to qualified donees, when making a grant to a grantee, a registered charity must meet certain accountability requirements, which are to:

- ensure that its resources are exclusively applied to charitable activities that further one or more of its charitable purposes; and
- maintain sufficient documentation in its books and records to demonstrate this, including the purpose for which the grant is made.

This decision as to how it will carry out its activities rests with the charity, and it can determine what is most appropriate in the circumstances. The onus is on the charity to demonstrate which approach it has taken and that it meets the relevant legislative requirements in its books and records.

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

---

<sup>13</sup> See Subsection 149.1(1) of the Income Tax Act for a list of qualified donees.

<sup>14</sup> For more information, see CRA Guidance CG-002, Canadian registered charities carrying out activities outside Canada and CRA Guidance CG-004, Using an intermediary to carry out a charity's activities within Canada.

direction and control over the activity and over the use of the resources it provides to the intermediary to carry out the activity on its behalf.<sup>15</sup>

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

- communicate a clear, complete, and detailed description of the activity to the intermediary;
- monitor and supervise the activity, including requiring regular reporting;
- Provide annual reports to the Charity
- provide clear, complete, and detailed instructions to the intermediary on an ongoing basis;
- make periodic transfers of resources to the intermediary, based on demonstrated performance; and
- arrange for the intermediary to either keep the charity's funds separate, or account for separately in its books and records.
- Provide the Charity all documents of each applicant for the scholarship program, i.e the income tax notice of assessment of the students, documents demonstrating academic performance, documents demonstrating students' enrollment at Yeshivath Lelov, the final decision of the committee for the scholarship program.

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

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

Under the scheme of the Act, it is open to a charity to conduct its overseas activities either using its own personnel or through an agent. However, it cannot merely be a conduit to funnel donations overseas.<sup>16</sup>

---

<sup>15</sup> For more information, see CRA Guidance CG-002, *Canadian Registered Charities Carrying Out Activities Outside Canada* and Guidance CG-004, *Using an Intermediary to Carry Out Activities Within Canada*.

<sup>16</sup> *Canadian Committee for the Tel Aviv Foundation v Canada*, 2002 FCA 72 at para 30, Rothstein JA.

And

Pursuant to subsection 149.1(1) of the Act, a charity must devote all its resources to charitable activities carried on by the organization itself. While a charity may carry on its charitable activities through an agent, the charity must be prepared to satisfy the Minister that it is at all times both in control of the agent, and in a position to report on the agent's activities.<sup>17</sup>

As re-iterated by the Court in *Lepletot v MNR*,<sup>18</sup> an organization may carry on charitable activities through an agent if the activities are conducted on behalf of the organization. However, it is not enough for an organization to fund an intermediary that carries on certain activities. The law requires that the intermediary actually conduct those activities on the organization's behalf. Likewise, the Court in *Canadian Magen David Adom for Israel* mentions the importance of monitoring the activities when it stated that:

[A] charity that chooses to carry out its activities in a foreign country through an agent or otherwise must be in a position to establish that any acts that purport to be those of the charity are effectively authorized, controlled and monitored by the charity.<sup>19</sup>

### **Audit findings**

With respect to the above, the audit found that the Organization failed to devote resources to charitable activities carried on by the Organization itself, because it lacked direction and control over its own resources and it transferred funds to non-qualified donees. This view is substantiated by the following factors:

#### **1.1 Lack of direction and control over its own resources**

As stated above, the audit found that the Organization lacks direction and control over its own resources. Specifically, for the fiscal years ended December 31, 2018, and December 31, 2019, the Organization provided an agency agreement with an individual named [REDACTED] dated July 10, 2017. The Organization appointed [REDACTED] as intermediary to assist it in providing scholarships to deserving students attending Yeshivath Lelov in Israel.

However the audit revealed that the Organization did not exercise the required degree of direction and control over the use of its funds, or over the activities conducted with those funds, to establish that it was carrying out its own charitable activities in accordance with the provisions of the Act. Rather, it appears that the Organization was acting as a conduit: funding and facilitating the work of the intermediary. The following outlines the basis for our concerns.

---

<sup>17</sup> Canadian Committee for the Tel Aviv Foundation v Canada, 2002 FCA 72 at para 40, Rothstein JA .

<sup>18</sup> Bayit Lepletot v Canada (MNR), 2006 FCA 128 at para 5.

<sup>19</sup> Canadian Magen David Adom for Israel v Canada (MNR), 2002 FCA 323 at para 66, Létourneau JA .

*Assessment / Approval of scholarship applications*

In the Statement of Activities dated July 10<sup>th</sup>, 1995, the Organization indicated that scholarships will be granted as follows:

The criteria to be used in deciding on issuing scholarships is financial needs. The scholarship committee will interview a student and test him to determine if his scholastic knowledge is on a level high enough to be worthy of a scholarship. At the same time, the committee has the applicant complete an application. If the student fulfills the requirements of a scholarship along with being on a level high enough scholastically, he is eligible for a scholarship based on the formula.

During the audit, the Organization provided a total of eight scholarship application forms from the beneficiaries of the scholarship program for the fiscal year ended December 31<sup>st</sup>, 2019. Although the Organization provided the scholarship application forms from the applicants of the scholarship program, the Organization failed to provide supporting documentation, such as proof of income, proof of academic performance, or proof of the applicants' enrolment at Yeshivath Lelov. As a result, we were unable to determine whether the scholarship recipients met the selection criteria indicated in the Statement of Activities dated July 10<sup>th</sup>, 1995.

Additionally, it appears that the Organization was funding and facilitating the work of the intermediary. While the Organization stated that the beneficiaries of the scholarship programs are selected by a committee formed by the board members of Yeshivath Lelov, the Organization failed to provide written documentation, such as email records and meeting minutes, indicating that scholarship applications had been discussed and approved by the board members of Yeshivath Lelov. Therefore, the Organization failed to demonstrate that it was involved in this committee during the selection and approval process of the beneficiaries. As such, the Organization failed to demonstrate that it has the authority to make decisions and set parameters on significant issues related to this activity.

*Disbursement of the scholarship funds*

In the fiscal year ended December 31<sup>st</sup>, 2019, the Organization recorded transactions for a total amount of \$34,195 in the General Ledger (GL) account entitled "Religious Programs". The Organization stated that this is the sum of all scholarships distributed. However, in forms signed by the beneficiaries acknowledging the receipt of scholarships, the sum of scholarship funds amounts to \$39,700, a discrepancy of \$5,504.50.

Out of the above-mentioned \$34,195 scholarship disbursement recorded in the GL account, the audit revealed that the Organization had made payments by cheque totaling \$9,453 to individuals named [REDACTED]. The audit also revealed that the Organization withdrew \$24,742.50 in cash that it claimed to have distributed to individuals named [REDACTED]. Our

review found that the Organization failed to provide documentation demonstrating that cash had actually been distributed to these individuals.

The Organization stated further that [REDACTED] [REDACTED] are all friends and former students who would bring the Organization's funds to Israel and distribute those funds to the beneficiaries of the scholarship program.

Although the Organization provided forms signed by the beneficiaries acknowledging the receipt of scholarships, the Organization failed to provide documentation, such as proof of payments, demonstrating that funds had actually been distributed to the beneficiaries of the scholarships. Finally, the Organization failed to provide documentation to indicate the dollar amount of scholarships distributed by each of the individuals mentioned above to each beneficiary.

As a result, it is our view that the Organization failed to provide sufficient documentation to demonstrate that it directed and controlled the disbursement of scholarships.

#### *Ongoing instructions*

The Organization stated that its president visits Yeshivath Lelov every two or three years to supervise the scholarship program. As the Organization was unable to provide records of written documentation (such as records of communication by telephone, videoconference, or email), it is our view that the Organization failed to demonstrate that it had provided on going instructions to the intermediary. The Organization also failed to demonstrate that it regularly monitors the progress of activities carried out by the intermediary on its behalf.

The previous audit for the period from January 1, 2008, to December 31, 2009, found that the intermediary did not have a separate bank account for the funds received from the Organization and failed to provide unaudited annual reports to the Organization. As well, the intermediary did not provide the Organization with sufficient documentation for each scholarship applicant, such as documentation supporting the registration and acceptance of the student by the school for the period covering the scholarship, or the income tax notice of assessment of the student's parents.

In the above-mentioned compliance agreement, the Organization agreed to maintain direction and control over funds it sent overseas, to require its intermediary to open a separate bank account for funds it received from the Organization, to provide annual reports, and to provide all documentation for each scholarship applicant. Based on the above findings, it is our view that the Organization failed to rectify the issues of non-compliance identified during the previous audit for the period from January 1, 2008, to December 31, 2009.

Although the Organization was able to provide scholarship application forms, forms signed by beneficiaries acknowledging their receipt of scholarships, and agency

agreements signed with the intermediary, this documentation lacked sufficient detail to allow us to distinguish between the Organization's activities and those of the intermediary. As a result, the Organization has not exercised the required degree of direction and control over the use of its funds, or over the activities to be conducted with those funds. Rather, it appears that the Organization has acted as a conduit, funding and facilitating the work of the intermediary.

### **1.2 Gifted to non-qualified donee**

The audit found that the Organization gifted to non-qualified donees. Specifically:

- In the fiscal year ended 2019, the audit revealed that the Organization made payments by wire transfer to [REDACTED] an entity in the United States, for a total amount of \$14,205.67. [REDACTED] does not have an agency agreement with the Organization and is not a qualified donee. Therefore, it is our view that the Organization funded a non-qualified donee.

Additionally, the Organization stated during the audit that [REDACTED] transferred these funds to [REDACTED] an entity that asked the Organization for help building their new synagogue, at Ohel Yehoshua [REDACTED]. Although the Organization provided a confirmation letter from [REDACTED] indicating that it had received the funds, the Organization failed to provide proof of payment, such as completed wire transfers, demonstrating that [REDACTED] had transferred the funds to [REDACTED]. Therefore, it is our view that the Organization failed to provide sufficient documentation supporting the purpose of the funds sent to [REDACTED]. Furthermore, the funding of the construction of a synagogue does not correspond to the Organization's purpose, as stated in its By-Laws. Therefore, it is our view that the Organization did not devote its resources to its charitable purpose.

- The audit found that during the 2019 fiscal year, the Organization's director had purchased a sterling silver crown for \$2,500 US, along with two sterling silver pointers and a sterling silver Menorah for \$3,700 CAD, to be used during Sefer Torah readings. The Organization had reimbursed its director for these purchases. Although the Organization stated that these items were purchased for a new synagogue in Israel, the funding of a synagogue does not correspond to the Organization's purpose, as stated in its By-Laws. As a result, it is our view that the Organization gifted to non-qualified donee, and failed to devote its resources to its charitable purpose.

The previous audit for the period from January 1, 2008, to December 31, 2009, found that the Organization was resourcing non-qualified donees. In the October 30<sup>th</sup>, 2013, compliance agreement, the Organization agreed that it would not transfer funds or resources to non-qualified donees. However, based on the above findings, it is our view that the Organization failed to rectify this issue of non-compliance, as the Organization

continued to provide funding to a non-qualified donee, which is contrary to the provisions of the Act.

### **In summary**

Given the Organization's failure to meet the requirements of subsections 149.1(1) and 149.1(2) of the Act, that it devote substantially all of its resources to its own charitable activities or to gifting to qualified donees, and its continued failure to rectify these same issues identified in the October 30th, 2013, Compliance Agreement, it is our view that the present case constitutes repeated serious and material non-compliance. For this reason, it appears there may be grounds for revocation of the charitable status of the Organization under paragraph 168(1)(b) of the Act.

## **2. Failed to maintain adequate books and records**

### **Legislation and jurisprudence**

Section 230(2) of the Act requires that registered charities maintain adequate books and records<sup>20</sup> of account, at an address in Canada registered with the CRA, containing information in such form as will enable the Minister to determine whether there are grounds for the revocation of its registration under the Act. 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.<sup>21</sup>

Subsection 231.1(1) of the Act permits an authorized person to inspect, audit, or examine the books and records of a taxpayer, as well as any document of the taxpayer, or of any other person that relates, or may relate, to the information that is, or should be, contained in the books and records of the taxpayer, or to any amount payable by the taxpayer under the Act.

In order to meet these requirements, a charity's books and records must allow the CRA to verify the charity's revenues and expenses, as well as any official donation receipts it may have issued. Further, the Act requires that a charity's records contain such information to allow the CRA to determine whether the charity's activities continue to be charitable at law.

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

---

<sup>20</sup> Subsection 248(1) of the Act defines a record in the following way: "record includes an account, an agreement, a book, a chart or table, a diagram, a form, an image, an invoice, a letter, a map, a memorandum, a plan, a return, a statement, a telegram, a voucher, and other thing containing information, whether in writing or in any other form."

<sup>21</sup> Income Tax Act, RSC 1985 c 1 (5th supp) at s 168(1)(e); See also generally examples in *College Rabbiniq 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.



- the onus is on the registered charity to prove that its charitable status should not be revoked.<sup>22</sup>
- a registered charity must maintain, and make available to the CRA at the time of an audit, meaningful books and records, regardless of its size or resources. It is not sufficient to supply the required books and records at some later date.<sup>23</sup>
- Paragraph 168(1)(e) of the Act provides that the Minister may propose to revoke registration of a charitable organization if it fails to comply with, or contravenes, any of sections 230 to 231.5 of the Act. The Federal Court of Appeal has affirmed this, determining that non-compliance with subsection 230(2) of the Act is a proper basis upon which the Minister may issue such a notice.<sup>24</sup>
- the requirement to keep proper books and records is foundational and noncompliance with the requirement is sufficient to justify revocation.<sup>25</sup>

While paragraph 230(2) of the act does not explicitly set out the types of books and records that a registered charity is required to maintain, which could therefore lead to a technical failure to comply with the Act,<sup>26</sup> 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. In that regard, the Federal Court of Appeal has held that there exists a serious obligation for registered charities to maintain adequate books and records,<sup>27</sup> and that material or significant and/or repeated, non-compliance with the requirements of subsection 230(2) of the Act constitutes sufficient grounds for revocation.<sup>28</sup>

### **Audit findings**

With respect to the above, the audit found that the Organization failed to maintain adequate books and records. The following is a list of our concerns :

- 2.1** As described in Section 1 above, the Organization failed to provide sufficient documentation to demonstrate that it maintained direction and control over its scholarship program. Specifically, the Organization failed to provide the following:

---

<sup>22</sup> Canadian Committee for the Tel Aviv Foundation v Canada, 2002 FCA 72 at paras 26-27.

<sup>23</sup> Canadian Committee for the Tel Aviv Foundation v Canada, 2002 FCA 72 at 39; See also Lord's Evangelical Church of Deliverance and Prayer of Toronto v Canada, 2004 FCA 397.

<sup>24</sup> Opportunities for the Disabled Foundation v Canada (National Revenue), 2016 FCA 94 at para 39; and Ark Angel Foundation v Canada (National Revenue), 2019 FCA 21 at para 43.

<sup>25</sup> Jaamiah Al Uloom Al Islamiyyah Ontario v Canada (National Revenue), 2016 FCA 49 at para 15; and Ark Angel Foundation v Canada (National Revenue), 2019 FCA 21 at para 43.

<sup>26</sup> Prescient Foundation v. Canada (National Revenue) 2013 FCA 120; and Ark Angel Foundation v. Canada (National Revenue) 2019 FCA 21, paragraph 37.

<sup>27</sup> Humane Society of Canada for the Protection of Animals and the Environment v. Canada (National Revenue) 2015 FCA 178, paragraph 80.

<sup>28</sup> Ark Angel Foundation v. Canada (National Revenue) 2019 FCA 21, paragraph 43.

- Written documentation demonstrating the eligibility of the beneficiaries of the scholarships, such as:
  - Proof of income
  - Documentation demonstrating academic performance
  - Documentation demonstrating the beneficiaries' enrollment at Yeshivath Lelov
- Written Documentation demonstrating the Organization's involvement in the assessment and approval process of the selection of beneficiaries;
- A list of scholarship disbursements that reconciles to the general ledger;
- Written documentation demonstrating how funds distributed to [REDACTED] [REDACTED] were used during the 2019 fiscal year;
- Written documentation demonstrating how a cash withdrawal of \$24,742.50 during the 2019 fiscal year was used;
- Proof of payments demonstrating that scholarship funds were distributed to the beneficiaries;
- Written documentation indicating the specific dollar amount of scholarships distributed by each "intermediary" named in Section 1 above to each beneficiary;
- Written documentation demonstrating the Organization's communication with the intermediary;
- Structured arrangement(s) in support of disbursements that were made to non-qualified donees;
- Proof of payment, such as bank confirmation, demonstrating that the [REDACTED] transferred \$14,205.67 to [REDACTED].

**2.2** During the fiscal year ended December 31, 2019, the Organization paid \$10,000 in commissions to various individuals who solicited donations for the Organization. The Organization stated that the commissions were based on the performance, time invested and expense incurred by those individuals. However, the Organization failed to provide supporting documentation to describe the tasks undertaken by those individuals. The Organization failed to explain how the amounts of commissions were determined for each individual.

**2.3** For the fiscal year ended December 31, 2019, the audit found that on October 24<sup>th</sup>, 2019, the Organization's director purchased a sterling silver crown for Sefer Torah readings, valued at \$2,500 US, as well as two sterling silver pointers and a sterling silver Menorah valued at \$3,700 CAD. On October 28<sup>th</sup>, 2019, the Organization reimbursed its director with cheque [REDACTED] for the \$2,500 US, and cheque [REDACTED] for the \$3,700 CAD. However the Organization stated that it was unable to provide documentation demonstrating that its director paid for these items because he made these purchases in cash.

**2.4** The Organization failed to provide meeting minutes for the fiscal year ended December 31, 2018.

**2.5** For the fiscal years ended December 31, 2018, and December 31, 2019, the list of official donation receipts provided by the Organization did not contain the full names of all donors, the complete addresses of all donors, the complete date that each donation was made, and the date of the receipt.

**2.6** For the fiscal year ended December 31, 2019, the Organization was unable to provide the lease agreement for the office it rented at [REDACTED]  
[REDACTED]

### **In summary**

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

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

The law provides various requirements with respect to the issuance of official donation receipts by registered charities for gifts received by it. These requirements are contained in Regulations 3500 and 3501 of the Act and are described in detail in Income Tax Folio S7-F1-C1, Split-receipting and Deemed Fair Market Value.

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

### **Audit findings**

The audit revealed that the official donation receipts issued by the Organization do not meet the requirements described in Regulations 3500 and 3501(1) of the Act.

Specifically, the audit revealed the following:

- For the fiscal year ended December 31, 2018, a review of the official donation receipts indicated that the following elements were missing:
  - The donor's first name did not appear in receipts [REDACTED]
  - The signature of an authorized person was missing on receipt [REDACTED]
  - The addresses were incomplete for receipts [REDACTED]

- For the fiscal year ended December 31, 2019, a review of the official donation receipts indicated that the following elements were missing:
  - The donor's first name did not appear in receipts [REDACTED]
  - The signature of an authorized person was missing on receipts [REDACTED].

The previous audit for the period from January 1, 2008, to December 31, 2009, found that the Organization failed to issue donation receipts in accordance with the Act and/or its Regulations.

In the October 30, 2013, compliance agreement, the Organization agreed to issue official donation receipts in compliance with Regulations 3500 and 3501 of the Act.

Based on our findings, the Organization failed to rectify this area of non-compliance, indicating that it failed to fully implement the corrective measures described in the October 30, 2013, compliance agreement.

### **In summary**

Given that the Organization issued official donation receipts otherwise than in accordance with the Act and its Regulations, along with its continued failure to rectify the receipting issues identified in the October 30, 2013, compliance agreement, it is our view that the present case constitutes repeated serious and material non-compliance. For this reason, it appears there may be grounds for revocation of the Organization's charitable status under paragraph 168(1)(d) of the Act.

### **4. Failed to file an 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 an organization to ensure that the information provided in its Form T3010 Registered Charity Information Return, schedules and statements, is factual and complete in every respect. A charity is not meeting its requirement 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 a significant number of inaccuracies, or beyond what might reasonably be viewed as minor, in a Form T3010, are a sufficient basis for revocation.<sup>29</sup>

---

<sup>29</sup> Opportunities for the Disabled Foundation v MNR, 2016 FCA 94 at paras 48-51.

**Audit findings**

For the fiscal periods ended December 31, 2018, and December 31, 2019, the audit identified that the Organization failed to report accurate information in its T3010s. Additionally, it failed to prepare proper documentation for payments to an employee/director. The issues identified during the audit are as follows:

**4.1 Failed to report accurate information in Form T3010s**

- The Organization did not complete the T1235 - Directors/Trustees and Like Official Worksheet, for the fiscal year ended December 31, 2019.
- In the T1235 for the fiscal year ended December 31, 2018, the phone number of the directors was not provided.
- In the T1235 for the fiscal year ended December 31, 2018, the Organization reported that director Mendy Berkowitz was not dealing at arm's length with the other two directors. However, the audit revealed that all directors were, in fact, dealing at arm's length
- In the T1235 for the fiscal year ended December 31, 2018, the Organization reported the same date of birth and start date for the Organization's three directors. The audit revealed that the Organization had reported the date of birth and start date of the directors inaccurately.
- For the fiscal year ended December 31, 2019, the Organization did not complete the T1236 - Qualified donees worksheet/Amounts provided to other organizations. However, the Organization reported gifts made to qualified donees on line 5050 - Total amount of gifts made to all qualified donees, in the T3010.
- In the fiscal year ended December 31, 2019, the Organization did not accurately report lines 5000 to 5040 in the T3010. The audit revealed that the total declared amount of lines 5000 to 5040 in the T3010 was \$57,141, which did not equal the declared amount of \$73,845 at line 4950 - Total expenditures before gifts to qualified donees, as required. As a result, there is a discrepancy of \$16,704.
- In the fiscal year ended December 31, 2019, the Organization reported \$22,717 on line 4200 - Total assets, of the T3010. The audit revealed that the Organization included a loan amount of \$3,000 on line 4200, although the loan was repaid as of December 31<sup>st</sup>, 2019. Therefore, the amount reported on line 4200 of the T3010 is inaccurate and overstated.
- In the fiscal year ended December 31, 2019, the Organization reported \$14,500 on line 4510 - Total amount received from other charities, of the T3010. However, the list provided by the Organization of donations received from other registered

charities indicates a total amount of \$27,880, a discrepancy of \$13,380. The audit revealed that this discrepancy was due to an error in the breakdown of lines 4510 and 4530 of the T3010.

- In the fiscal year ended December 31, 2019, the Organization reported \$1,326.90 on line 4920 - All other expenditures not included in the amounts above (excluding gifts to qualified donees). The audit revealed that the amount of \$1,326.90 was a gift made to a qualified donee called Synagogue Zichron Moshe. As a result, this amount should have been reported on line 5050 - Total amount of gifts made to all qualified donees, of the T3010.
- The audit revealed that in the fiscal year ended December 31, 2019, the Organization sent funds totalling \$34,195.50 outside of Canada for its scholarship program. However, the Organization did not report that amount on line 200- Total activities on activities/programs/projects carried on outside of Canada, of the T3010.

#### **4.2 Failed to issue an information return for amounts paid (T4, T4A) - failed to prepare proper documentation for payments to an employee/director**

As per paragraph 168(1)(c) of the Act, a registered charity must “file an information return as and when required under this Act or a regulation”.<sup>30</sup> While this paragraph refers specifically to a registered charity’s Form T3010, it also refers to all other information returns that the registered charity is required to file.

In accordance with Regulation 200(1) and Regulation 200(2) of the Act, a registered charity may be required to prepare and file a complete Form T4, Statement of Remuneration Paid, and Form T4A, Statement of Pension, Annuity and Other Income, both of which need to be filed with a summary return. Form T4 is to be completed and filed every year a registered charity makes a payment to an individual as described in 153(1) of the Act in excess of \$500 in a calendar year. These payments can include salaries, wages, commissions, tips, vacation pay, and taxable benefits or allowances. Conversely, Form T4A is to be completed and filed every year in which a registered charity makes payments or provides income to individuals in excess of \$500 in a calendar year, and includes payments for pension or superannuation, annuities, fees for services, scholarships, bursaries, grants or financial assistance.<sup>31</sup>

During the fiscal year ended December 31, 2019, the Organization paid a total amount of

---

<sup>30</sup> Subsection 168(1) of the Act states, “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 [...] (c) in the case of a registered charity, registered Canadian amateur athletic association or registered journalism organization, fails to file an information return as and when required under this Act or a regulation”.

<sup>31</sup> For more information about completed Form T4 or Form T4A, or other payroll requirements, see Guide T4001, Employers’ Guide – Payroll Deductions and Remittances; Guide RC4120, Employers’ Guide – Filing the T4 Slip and Summary; and Guide RC4157, Deducting Income Tax on Pension and Other Income, and Filing the T4A Slip and Summary.

\$10,000 in commission to its director, Robert Halpert, along with two individuals named [REDACTED]. However, the Organization did not issue a T4A slip to any of these individuals.

The previous audit for the period from January 1, 2008, to December 31, 2009, found that the Organization failed to file its Form T3010 accurately, and failed to issue T4 and T4A slips. In the October 30, 2013, compliance agreement, the Organization agreed to file its annual T3010 accurately, with applicable schedules and statements being factual and complete in every respect. Additionally, the Organization agreed to issue at year's end the prescribed T4 form for employees or T4A form for contractors if any commissions were paid. Based on our findings, the Organization failed to rectify these issues of non-compliance, which indicates that the Organization did not fully implement the corrective measures described in the October 30, 2013, compliance agreement.

### **In summary**

Given the Organization's failure to comply with subsection 149.1(14) of the Act to file an accurate T3010 return and to issue T4As as described above, in addition to its continued failure to rectify the issues identified in the October 30, 2013, compliance agreement, it is our view that the present case constitutes repeat serious and material non-compliance by the Organization. Under paragraph 168(1)(c) of the Act, the registration of a charity may be revoked if it fails to file an information return as and when required under the Act or its Regulations. For this reason, it appears there may be grounds to revoke the registered status of the Organization.

### **The Organization's options:**

#### **a) Respond**

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

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

#### **b) Do not respond**

The Organization may choose not to respond. In that case, we may issue a notice of intention to revoke the registration of the Organization in the manner described in subsection 168(1) of the Act.

The Act provides the Minister the discretion to revoke a charity's registration. Section 168 of the Act describes the manner in which the Minister may revoke a charity's registration. In accordance with subsection 168(1) of the Act, when proposing to revoke, the charity is given notice by registered mail of the Minister's intention to revoke the charity's registration. The charity's registration is not revoked until a copy of the notice is published in the Canada Gazette. Paragraph 168(2)(b) of the Act allows the Minister to publish the notice in the Canada Gazette any time after the expiration of 30 days from the date of the mailing of the notice.

After considering the Organization's response to this letter, the Minister may decide to exercise her authority to revoke its charitable registration. If so, the Minister will issue a notice of intention to revoke the Organization's registration and will indicate in the notice whether the Minister intends to publish the notice in the Canada Gazette immediately after the expiration of 30 days from the date of the mailing of the notice.

If you appoint a third party to represent you in this matter, please send us a written authorization with the party's name, contact information, and clearly specify the appropriate access granted to the party to discuss the file with us. For more information on how to authorize a representative, go on our website at [canada.ca/en/revenue-agency/services/forms-publications/forms/aut-01](http://canada.ca/en/revenue-agency/services/forms-publications/forms/aut-01).

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

Yours sincerely,



Mayuri Paramasivampillai  
Compliance Division  
Montreal TSO

Telephone: 514-603-2614  
Toll Free: 1-888-892-5667  
Facsimile: 514-283-2769  
Address: 305 boul René-Lévesque Ouest  
7e étage, P.O.27, section 445-1-3  
Montréal (QC) H2Z 1A6

Attachments :

- Compliance Agreement signed on October 30, 2013



## **Compliance Agreement**

Between:

**Canadian Friends of Lelov Yeshivah (the Charity)**

6249 De Vimy

Montreal, Quebec H3S 2R4

BN: 888426475RR0001

And

**Canada Revenue Agency (the CRA)**

During an audit of the Organization's books and records conducted by the CRA on July 5th, 2011, the following areas of non-compliance with the provisions of the *Income Tax Act* and/or its *Regulations* were identified:

### **Areas of Non-Compliance**

#### **1. File Information return-Form T3010 –Failure to file on time**


Pursuant to subsection 149.1(14) of the Act, the Charity must, **within six months** from the end of each taxation year, that is, fiscal period of the Charity, file with the Minister an Information Return for the year, in prescribed form and containing prescribed information, without notice or demand therefor.

The Information returns for the years:

-2002 was  
-2003 was  
-2007 was  
-2008 was  
-2009 was



#### **2. Inaccurate Information Return-Form T3010**

, the Charity failed to properly complete the Information Return filed with Canada Revenue Agency in that the Charity did not provide prescribed information in its Return.

In section F (Other required information), Line 5400 (Total expenditures on programs outside Canada) the amount reported is Nil (\$ 0) when in fact the amount is \$ 444 515.

### **3. Lack of Control of Activities Outside Canada**

The activities outside Canada of the Charity are scholarship grants for needy students. For this activity, the Charity has provided to CRA the following documents:

- a letter from [REDACTED] accountant, to certify the total cost of the program, Assistance for Education for needy families in Jerusalem, the total number of students that received the assistance , the names and identification of the families , and the number of children and the amount received.

- the request form for education assistance completed by the parents. On the form, there appears the parent's name, the address, their income and number of children.

Pursuant to subsection 149.1(1) of the Act, the Charity must devote all its resources to charitable activities carried on by the Charity itself. While the Charity may carry on its charitable activities through an agent, the Charity must be prepared to satisfy the Minister that it is all times both in control of the agent, and in a position to report on the agent's activities. Several major deficiencies related to the funds sent overseas by the Charity were identified, namely:

[REDACTED]

### **4. Gifts to Non-Qualified Donees**

Regarding the gifts to qualified donees, the Charity has given \$ 1 125 to [REDACTED] for the year 2008 and \$ 4 550 to [REDACTED] for the year 2009.

The audit showed those two individuals who received gifts from the charity were not qualified donees. [REDACTED]

### **5. Failure to issue T4 & T4A slip**

The Charity has paid commissions to:	<u>Year 2008</u>	<u>Year 2009</u>
- Robert Halpert	\$ 13 900	\$ 7 000
- [REDACTED]	\$ 38 600	\$ 42 472
- [REDACTED]	\$ 4 000	
- [REDACTED]	\$ 26 100	

At years' end, the Charity did not issue T4 or T4A slips.

[REDACTED] a non-resident; and the Charity has to withhold income tax.

## **6. Official Donation receipts**

The regulations stipulate various legislative requirements pertaining to official donation receipts issued by registered charities. The official donation receipts issued by the Charity failed to comply with the requirements of section 3501 of the regulations as follows:

-Official receipts did not show the place or locality where the receipt was issued;

-Where the donation is a cash donation, official receipts did not show the day on which or the year during which the donation was received;

-Official receipts did not show the day on which the receipt was issued where that day differs from the day on which the donation was received;

-Official receipts did not show the amount that is the amount of a cash donation.

Among the receipts audited, we found several deficiencies such as:

-The Charity has issued two receipts with the same number [REDACTED]  
[REDACTED]

-The number of the donation receipts issued by the Charity is not continuous  
[REDACTED]

## **Corrective Measures**

### **1. File Information return-Form T3010 –Failure to file on time**

The Charity agrees to file the information return-form T3010 on time.

### **2. Inaccurate Information Return-Form T3010**

The Charity agrees to complete the information return T3010 accurately.

### **3. Lack of Control of Activities Outside Canada**

The Charity agrees to have direction and control over the funds sent overseas. The Charity agrees to require that the agent:

- To open a separate bank account for the funds received from the Charity
- to provide annual reports to the Charity
- to provide the Charity all documents of each applicant for the scholarship, i.e. the document supporting the registration/acceptance by the school of the student for the period covering the scholarship, the income tax notice of assessment of the student's parents, the final decision of the committee for the scholarship.

### **4. Gifts to Non-Qualified Donees**

The Charity agrees to give gifts only to Qualified Donees. Before the gift is given, the Charity has to verify if the donee is a qualified donee.

### **5. Issue of T4 & T4A slip**

The Charity agrees to issue at years' end, the prescribed T4' for employees or T4A form for contractors if any commissions are paid.

If the person who is paid a commission is a non-resident, the Charity agrees to withhold income tax.

### **6. Official Donation receipts**

The requirements of section 3501 of the regulations are:

Every official receipt issued by a registered organization shall contain a statement that it is an official receipt for income tax purposes and shall show clearly in such a manner that it cannot readily be altered,

- (a) the name and address in Canada of the organization as recorded with the Minister;
- (b) the registration number assigned by the Minister to the organization;
- (c) the serial number of the receipt;
- (d) the place or locality where the receipt was issued;
- (e) where the gift is a cash gift, the date on which or the year during which the gift was received;
- (e.1) where the gift is of property other than cash
  - (i) the date on which the gift was received,
  - (ii) a brief description of the property, and
  - (iii) the name and address of the appraiser of the property if an appraisal is done;
- (f) the date on which the receipt was issued;
- (g) the name and address of the donor including, in the case of an individual, the individual's first name and initial;
- (h) the amount that is
  - (i) the amount of a cash gift, or
  - (ii) if the gift is of property other than cash, the amount that is the fair market value of the property at the time that the gift is made;
- (h.1) a description of the advantage, if any, in respect of the gift and the amount of that advantage;
- (h.2) the eligible amount of the gift;
- (i) the signature, as provided in subsection (2) or (3), of a responsible individual who has been authorized by the organization to acknowledge gifts; and
- (j) the name and Internet website of the Canada Revenue Agency.

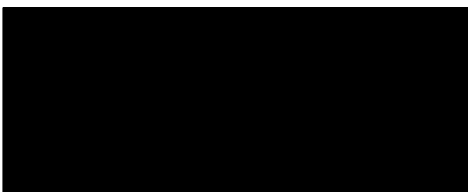
The charity engage to issue the official donation receipt as requested the regulation 3501

### **Date of Implementation of all Corrective Measures**

The Organization shall implement all corrective measures immediately upon signing this compliance agreement.

By signing below, the parties certify that they have read, understood, and agree to, the terms of this Compliance Agreement. The Organization further acknowledges that should

it fail to implement all corrective measures in accordance with the terms of this Compliance Agreement, the Minister of National Revenue (the Minister) may apply the penalties and suspensions provided for in sections 188.1 and/or 188.2 of the Act, which include suspension of the Organization's authority to issue official receipts and suspension of its status as a "qualified donee". The Minister may, by registered mail, also give notice that the Minister proposes to revoke the registration of the Organization by issuing a Notice of Intention to Revoke in the manner described in subsection 168(1) of the Act.



**Organization per:** Authorized Signatory with the authority to bind the Organization

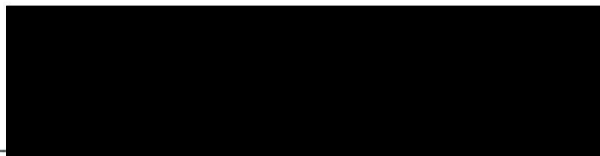


PRESIDENT

Name and position of signatory

Name of witness (please print)  
(please print)

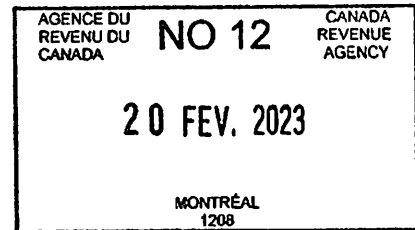
Date of signing: OCT 30, 2013\_\_



**CRA per :**  
Hung Vu, Auditor

Date of signing: October 30th, 2013\_\_

CANADIAN FRIENDS OF LELOV YESHIVAH  
6249 De Vimy Avenue  
Montreal, P.Q.  
H3S 2R4



February 15<sup>th</sup>, 2023

Mayuri Paramasivampillai  
Compliance Division  
Montreal TSO  
Canada Revenue Agency  
305 Boul. Rene Levesque West,  
7<sup>th</sup> Floor,  
P.O. 27, Section 445-1-3  
Montreal, QC  
H2Z 1A6

RE; BN: 888426475RR0001  
File # 1071489  
Case Number: 47391541

Dear Ms. Paramasivampillai:

I have read your letter of February 13, 2023. As discussed on the phone and after reading the contents of said letter, I have no further information that I can forward to you concerning the issues.

Thank you



ROBERT HALPERT

## 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

(i) a housing corporation resident in Canada and exempt from tax under this Part because of paragraph 149(1)(i) that has applied for registration,

(ii) a municipality in Canada,

(iii) a municipal or public body performing a function of government in Canada that has applied for registration,

(iv) a university outside Canada, the student body of which ordinarily includes students from Canada, that has applied for registration, or

(v) a foreign charity that has applied to the Minister for registration under subsection (26),

(b) a registered charity,

(b.1) a registered journalism organization,

(c) a registered Canadian amateur athletic association, or

(d) Her Majesty in right of Canada or a province, the United Nations or an agency of the United Nations.

#### **149.1 (2) Revocation of registration of charitable organization**

The Minister may, in the manner described in section 168, revoke the registration of a charitable organization for any reason described in subsection 168(1) or where the organization

(a) carries on a business that is not a related business of that charity;

(b) fails to expend in any taxation year, on charitable activities carried on by it and by way of gifts made by it to qualified donees, amounts the total of which is at least equal to the organization's disbursement quota for that year; or

(c) makes a disbursement by way of a gift, other than a gift made

(i) in the course of charitable activities carried on by it, or

(ii) to a donee that is a qualified donee at the time of the gift.

#### **149.1 (3) Revocation of registration of public foundation**

The Minister may, in the manner described in section 168, revoke the registration of a public foundation for any reason described in subsection 168(1) or where the foundation

(a) carries on a business that is not a related business of that charity;

(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.