

February 22, 2024

REGISTERED MAIL

Masood Khan
Secretary/Director
Canadian Helping Arms
119 Royal West Drive
Brampton ON L6X 0V4

BN: 83639 3132 RR0001
Case number: 74239641

Dear Masood Khan:

Subject: Notice of intention to revoke

We are writing with respect to our letter dated January 4, 2023 (copy enclosed), in which Canadian Helping Arms (the Organization) was invited to respond to the findings of the audit conducted by the Canada Revenue Agency (CRA) for the period from January 1, 2019 to December 31, 2020. Specifically, the Organization was asked to explain why its registration should not be revoked in accordance with subsection 168(1) of the Income Tax Act.

We have reviewed and considered your written response dated January 23, 2023. Your reply has not alleviated our concerns with respect to the Organization's non-compliance with the requirements of the Act for registration as a charity. Our concerns are explained in Appendix A attached.

Conclusion

The audit by the CRA found that the Organization is not complying with the requirements set out in the Act. In particular, it was found that the Organization failed to maintain proper books and records and failed to file an information return as 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 January 4, 2023, and pursuant to subsection 168(1) 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)(c) and 168(1)(e) of the Income Tax Act, of our intention to revoke the registration of the charity listed below and that by virtue of paragraph 168(2)(b) thereof, the revocation of registration will be effective on the date of publication of this notice in the Canada Gazette.

Business number	Name
836393132RR0001	Canadian Helping Arms Brampton ON

Should the Organization choose to object to this notice of intention to revoke its registration in accordance with subsection 168(4) of the Act, a written notice of objection, with the Organization's business number, 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

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

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

Consequences of revocation

As of the effective date of revocation:

- a) the Organization will no longer be exempt from Part I tax as a registered charity and **will no longer be permitted to issue official donation receipts**. This means that gifts made to the Organization would not be allowable as tax credits to individual donors or as allowable deductions to corporate donors under subsection 118.1(3) and paragraph 110.1(1)(a) of the Act respectively;
- b) by virtue of section 188 of the Act, the Organization will be required to pay a tax within one year from the date of the notice of intention to revoke. This revocation tax is calculated on Form T2046, Tax Return where Registration of a Charity is

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

- c) the Organization will no longer qualify as a charity for purposes of subsection 123(1) of the Excise Tax Act. As a result, the Organization may be subject to obligations and entitlements under the Excise Tax Act that apply to entities other than charities 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** or call GST/HST Rulings at 1-800-959-8287.

Reminder

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 January 4, 2023
- Organization's representations dated January 23, 2023
- Appendix A, Comments on representations
- Appendix B, Relevant provisions of the Act

c.c.: Alia Khan



January 4, 2023

Masood Khan
Secretary/Director
Canadian Helping Arms
119 Royal West Drive
Brampton ON L6X 0V4

BN: 83639 3132 RR0001
File #: 3050982
Case number: 74239641

Dear Masood Khan:

Subject: Audit of Canadian Helping Arms

This letter results from the audit of Canadian Helping Arms (the Organization) conducted by the Canada Revenue Agency (CRA). The audit related to the operations of the Organization for the period from January 1, 2019, to December 31, 2020.

On July 8, 2022, 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 maintain adequate books and records	168(1)(e) 188.2(2)(a) 230(2) 230(4) 230(4.1)
2.	Failed to file an information return as and when required by the Act and/or its Regulations	149.1(14) 168(1)(c) 188.1(6) 188.2(2.1)

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.

Identified areas of non-compliance**1. Failed to maintain adequate books and records**

Subsection 230(2) of the Act requires that every registered charity shall maintain adequate records¹ and books of account at an address in Canada recorded with the Minister or designated by the Minister containing;

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

This provision is necessary to enable a charity to accurately provide the CRA with the information required by the Act, as well as ensuring the CRA can verify the accuracy of reported information through an audit and determine whether there are any grounds for revocation of the charity's registration.

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 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.

Subsection 230(4) also states that every person required by this section to keep records and books of account shall retain:

- (a) the records and books of account referred to in this section in respect of which a period is prescribed, together with every account and voucher necessary to verify the information contained therein, for such period as is prescribed; and

¹ 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 any other thing containing information, whether in writing or in any other form."

(b) all other records and books of account referred to in this section, together with every account and voucher necessary to verify the information contained therein, until the expiration of six years from the end of the last taxation year to which the records and books of account relate.

Subsection 230(2) of the Act requires that registered charities maintain adequate books and records² 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 any grounds for the revocation of its registration under the Act.

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

- the onus is on the registered charity to prove that its charitable status should not be revoked.³
- 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.⁴
- 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., and the Federal Court of Appeal has determined that non-compliance with section 230(2) of the Act is a proper basis upon which the Minister may issue such a notice.⁵
- The requirement to keep proper books and records is foundational and non-compliance with the requirement is serious and justifies revocation.⁶

² 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 any other thing containing information, whether in writing or in any other form.”

³ See Canadian Committee for the Tel Aviv Foundation, 2002 FCA 72 at paras 26-27, [2002] 2 CTC 93.

⁴ Canadian Committee for the Tel Aviv Foundation v Canada, 2002 FCA 72 at para 39, [2002] 2 CTC 93. Furthermore, failing to comply with the requirements of section 230 of the Act by refusing to make documents available can lead to a fine and imprisonment, in addition to the penalty otherwise provided. See subsection 238(1) of the Act. See also The Lord’s Evangelical Church of Deliverance and Prayer of Toronto v Canada, 2004 FCA 397.

⁵ 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.

⁶ 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.

While paragraph 230(2)(a) 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, 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, 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.⁷

Audit findings

Records were initially requested in a letter sent to the Organization on May 4, 2022. The Organization acknowledged receipt of this letter on June 22, 2022, and the completed audit questionnaire, a current bank statement for the month of April 2022, and a letter from the Organization dated June 3, 2022, were received on June 23, 2022. At this time, bank statements for the audit period, accounting records, donation listings, board meeting minutes and support for the Organization's activities were not provided. A follow up letter was sent on July 8, 2022, requesting the outstanding bank statements and records. Bank statements along with a letter from the Organization dated August 23, 2022, were received on September 21, 2022. However, the following records have not yet been provided by the Organization:

- General ledger including the trial balances, grouping schedules and adjusting journal entries.
- Donations listings that include the receipt number, donor, donation amount.
- Details of the Organization's activities supported by copies of brochures, pamphlets, publications, membership and fundraising correspondence, newsletters, press releases, media-related materials, and other related literature.
- Copies of all minutes of board meetings.

It was found during the audit that no such book of account was maintained and that record retention in support of activities conducted by the Organization were incomplete.

The Organization's books and records and the internal accounting controls supporting them are considered to be inadequate. As a result, we were unable to confirm revenue and expenditures as reported on the Form T3010, Registered Charity Information Return.

⁷ *Ark Angel Foundation v Canada (National Revenue)*, 2019 FCA 21 at para 43.

In summary

It is our view that the Organization has failed to meet the requirements of subsection 230(2) of the Act. An organization that fails to maintain adequate books and records of account may have its registered charity status revoked. As such, there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(e) of the Act.

In addition, the Minister may suspend the Organization's authority to issue official donation receipts for one year for having inadequate books and records under subsection 188.2(2)(a) of the Act.

2. 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 a charity 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 requirements to file an information return in prescribed form if it fails to exercise due care with respect to ensuring the accuracy thereof. The Federal Court of Appeal has confirmed that a significant number of inaccuracies, or beyond what might reasonably be viewed as minor, in a T3010 are a sufficient basis for revocation.⁸

Audit findings

The audit results also indicated that the Organization is improperly completing the Form T3010, Registered Charity Information Return, in that many of the items reported were incorrectly identified or omitted. According to the bank statements that were provided on August 23 2022, a deposit of \$500 was made on July 8, 2020. This amount was not reported on the Organization's Form T3010 or included on the provided financial statements for the 2020 fiscal year.

On the financial statements provided for the 2019 fiscal year, the income statement details revenue of \$500 outlined as a donation. However, this amount has not been reported on the Form T3010 for the 2019 fiscal year. As well, a deposit of \$105 was made during the 2019 fiscal year on May 2, 2019, and another deposit of \$105 was made

⁸ Opportunities for the Disabled Foundation v MNR, 2016 FCA 94 at paras 50-51.

on May 16, 2019. These amounts were not reported on the Organization's Form T3010 or included on the provided financial statements for the 2019 fiscal year.

It was reported under ongoing programs on section C2 of the Organization's Form T3010 return for the 2019 fiscal year "NOT MUCH ACTIVITIES DUE TO COVID-19.

MOSTLY [REDACTED] MEETINGS AND VIDEO CONFERENCE TO PROMOTE THE CHARITY. MEDIA INTERVIEWS AND WRITE-UP TO INTRODUCE CHARITY TO THE PUBLIC, AIMS AND OBJECTIVES TO THE POTENTIAL DONORS." This statement does not appear to be accurate as the Covid-19 pandemic began during the 2020 fiscal year. Although the Form T3010 for the 2019 fiscal year was received on December 14, 2020, the ongoing programs reported on the return should have reflected the 2019 fiscal year and not the 2020 fiscal year.

It was also reported on the Organization's Form T3010s for the 2019 and 2020 fiscal years that the directors of the charity were dealing with each other at arm's length when in fact they were not. In the letter dated June 3, 2022, sent by the Organization, it was stated that all the directors are related to each other. The letter stated that Alia Khan is the

[REDACTED] Masood Khan, Arifa Naghar is his [REDACTED] Farid Lodhi is his [REDACTED] and Tamana Baburi is his [REDACTED] Paragraph 251(1)(a) of the Income Tax Act, deems that related persons do not deal with each other at arm's length. This is the case regardless of how they actually deal with one another. As well, one of the requirements of a charitable organization is that it has more than 50% of its directors, trustees, or like officials dealing with each other at arm's length. For details on the different types of registered charity designations, go to canada.ca/en/revenue-agency/services/charities-giving/charities/registering-charitable-qualified-donee-status/apply-become-registered-charity/establishing/types-registered-charities-designations.html. Based on the information provided, the charity should not be designated as a charitable organization as none of the directors are dealing with each other at arm's length.

It is the responsibility of the Organization to ensure that the information that is provided on its Form T3010, schedules and statements is factual and complete in every respect. Subsection 149.1(14) of the Act requires every registered charity to file a Form T3010, Registered Charity Information Return, without notice or demand, within six months from the end of each fiscal period. This return must be in prescribed form and contain prescribed information. A charity is not properly meeting its information return filing requirements when it fails to exercise due care with respect to insuring the accuracy thereof.

In summary

Under paragraph 168(1)(c) of the Act, the registration of a charity may be revoked if it fails to file a charity information return as and when required under the Act or its Regulations. It is our view the Organization has failed to comply with subsection 149.1(14) of the Act by failing to file an accurate T3010 return. For this reason, there may be grounds to revoke the Organization's charitable status.

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.

If you have any questions or require further information or clarification, do not hesitate to contact me at the numbers below. My team leader, Darsana Idema, may also be reached at 226-753-6648.

Yours sincerely,

[REDACTED]

Darren Campbell – Income Tax Audit, Division 1
GTA East TSO
200 Town Centre Court
Toronto ON M1P 4Y3
Telephone: 519-577-6146
E-Fax: 418-556-1819 (local)
1-833-647-1911 (toll free)

Website: canada.ca/revenue-agency

January 23, 2023

Sent by Registered mail

Darren Campbell/Darshan Dem
Income Tax Audit, Division 1
GTA East TSO
200 Town Centre Court
Toronto, ON
M1P 4Y3



Dear Darren Campbell,

Re: File # 3050982 Canadian Helping Arms

I knowledge receipt of a letter dated January 04, 2023 signed by you but [REDACTED]

Before I respond to all your baseless assumptions and serious allegation, I like to put this on record (basically a response in a nut shell to all your accusation and assumption) and will put on a strict proof.

1. We have not issued a single tax receipt.
2. We have never received a single donation.
3. All our returns including 2022 were filed on time and we have written evidence.
4. All our books and record are safely stored at our office.
5. Despite my multiple request neither you came to our office nor you invited me to visit your office with the books and record, your audit was not properly and professionally conducted for facts finding.
6. Little money in the bank is [REDACTED] when we need to spend on printing, promotion material etc.
7. Our account balance has never exceeded \$1,900 and we did not cut any cheque since 2019 and did not incur any expense.
8. Our understanding is that only public donations for which a tax receipt is issued are to be reported not our own money.

[REDACTED]

[REDACTED]

WE first spoke on April 27, 2022 regarding your than proposed audit, later we received a letter Dated May 04, 2022 from a Kitchener Waterloo address. I sent you all the docs you requested within within 30 days and on top of that I have asked in my letter to let me know if you require any other documents and I did not hear back from you for few weeks.

I called several times to find out if you have received my package that I sent via regular mail and to find out if you require any other docs but you neither called or sent me any letter, [REDACTED]
[REDACTED] I called your team leader Omar Farah, left several messages but he never called back, later I found out that he is no longer your teal leader.

On July 08, 2022, I have received another letter from you, this letter came from a Toronto address and not Waterloo address where I sent the docs., again no acknowledgement of receipt of our papers you now claimed in your letter that we did not provide you required docs. I called you and you said to me that my package may be sitting in your mail room, other words no one bother to check the mail room since June 03, 022 that was an unusual answer.

I wrote back on August 10, 2022 followed by my phone call to suggest that perhaps best is to meet either at our office or yours to go through books and record and if you decide to visit us, I will make sure to provide a printer so that you can make copy of any paper you required from our record. You turned down both offers.

[REDACTED] I decided to call your new Team Leader Darshan Dema and spoke to Darshan on August 23 and didn't believe what I heard "I will seize your assets and will make your life miserable through this audit", [REDACTED]
[REDACTED] Soon after this threat, I sent two years bank statements by registered mail to your Toronto address.

To address your Area of Non-Compliance Issues:

1. What measures did you take to establish that we are not maintaining adequate books and record? please provide evidence, I am suggesting that neither you visited us nor we were invited to your office so that we can go through books and records, needless to say that we have all updated record in our office and you were invited to to come and check them out at a mutually convenient time.
 - a) All related and required information is available at our office located in Brampton, ON.
 - b) We have not received any donation therefore this is not applicable in our case.
 - c) We have not issued any tax receipt, this is also not applicable in our scenario.

We never stopped you to comply with Subsection 230 (2 or 4) or Subsection 231-1(1), as a matter of fact, I have invited you time and again to visit our office and check books and records but you decided to conduct this audit by simply sitting in your office and assume things.

Your Audit findings

It makes no sense that we did not acknowledge receipt of your letter dated May 04 until June 22 but have provided your requested docs on June 03, we provided what you have asked for and later you confirmed during our phone conversation that you have what you were looking for.

- You said to me over the phone that you have access to all the returns we have filed with CRA, those returns also include our trial balance.
- ~~I reiterate that we did not receive any public donation and therefore no tax receipts were ever issued, this is not applicable in our case.~~
- Details of our Organization's activities are part of the return that you have access to, had you asked for any particular docs, we would have provided you. In your two years audit, I do not recall you asking for all those listed in your letter now.
- For your two years audit, we provided you minutes of our annual meeting.

~~[REDACTED] sitting on your desk, how could you possibly make a statement about our record, you never had an opportunity to go through our UpToDate books and record [REDACTED]~~

You were provided copies of two years bank statement, all debits and credits for your audit period were recorded on those statements, ~~how can you not confirm revenue by going over those bank statements? Again, we did not receive any public donation and the money in our account is our family money.~~

~~With due respect your findings are without merit, are unfounded and based on assumptions and these assumptions are not a reasonable ground for the Minister to take action.~~

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

~~WE have religiously complied with Subsection 149.1(14) and have written evidence to prove that our returns were filed within the time allowed, we put you on strict proof to support your statements and provide written evidence that we did not file our returns on time.~~

Audit Findings

~~[REDACTED] an auditor usually ask question about an entry that is not explained, you never asked me or communicated through a letter regarding any entry on those two years bank statement, I could have explained you that deposits were our own funds not a public donation.~~

~~[REDACTED] public donations where a tax receipt is issued are to be reported not funds deposited by the family to meet certain expenses. I [REDACTED] couldn't find a space on the form to put down family funds with no tax receipt issued. All~~

those small deposits you are talking about are family money and no tax receipt is issued for any of them.

I am not familiar with any fix activity quota that organizations like ours has to meet, help me out and tell me what is the minimum quota of social activities we are required to meet every year in order to maintain our charity status?

We have never provided any information which is not factual, not sure what information you found that was not factual, it is true that most directors are related to me and find nowhere in the Act that this is not permitted for a small Ontario base charity.

Summary

[REDACTED]

[REDACTED] we should have met and gone over the record and books at a mutually convenient location which was not done in this case, [REDACTED]

[REDACTED]

Charity work is a thankless volunteer job (unlike United Way and World Vision where volunteer get paid), we are trying to help less fortunate Ontarians with our time and limited resources, none of our Director were paid for their time or they took any advantage of our charity status, not sure what are we doing wrong.

[REDACTED]

Masood Khan, Secretary/Director
Canadian Helping Arms
119 Royal West Drive, Brampton, ON L6X 0V4

C: Honourable Diane LeBoutillier, Minister of National Revenue, 7th floor, 555 MacKenzie Avenue, Ottawa, ON K1A 0L5
Mr. Francois Boileau, CRA Ombudsman 1000-171 Slater Street, Ottawa, ON K1P SH7



CANADIAN HELPING ARMS INC.

Helping less fortunate Ontarians

August 23, 2022

Darshan Dema/Darren Campbell
Income Tax Audit, Division 1
Canada Revenue Agency
GTA East; TSO 4th Floor- Rm 475-
200 Town Centre Court
Toronto, ON M1P 4Y3

Dear Darshan Dema,

Re: Case number 74239641 BN: 83639 3132 RR0001

Further to our phone conversation today, [REDACTED]

CANADA POST		POSTES CANADA	
		REGISTERED DOMESTIC	RECOMMANDÉ RÉGIME INTÉRIEUR
		CUSTOMER RECEIPT	REÇU OU CLIENT
To	Destinataire		
Name	Nom		
DARSHAN	CRA		
Address	Adresse		
TO RON TO			
City / Prov. / Postal Code	Ville / Prov. / Code postal		
Declared Value Value déclarée	\$	FOR DELIVERY CONFIRMATION canadapost.ca	CONFIRMATION DE LA LIVRAISON postescanada.ca
33-086-584 (17-12)		07/22	1 888 550-6333
CPC Tracking Number		Número de rastreo de la SCP	
RN 508 883 623 CA			

2 yes vs Bank statements

I definitely do not wish to go any further with you for this audit and would like to suggest that you please have your Manager contact me ASAP.

This audit has not been a smooth audit since the beginning, first Darren kept on denying receipt of the docs I sent on June 03 in response to his letter and questionnaire and, only after my one half follow up calls and suggestion to check with CRA mail room at his location, he acknowledge receipt, I tried to contact his team leader Omar Farah listed in his letter but when he did not call back, I found out days later that Darren Campbell has a new team leader (you). [REDACTED]

needless to say that both his letters came from different addresses [REDACTED]

I called you and left a message [REDACTED] and will not return until August 16, 2022 and today, you told me that you have no access to my file and did not see my letter of August 10, 2022 as yet. [REDACTED]

I have taken your threat seriously about contacting my bank and seize assets and making my life miserable with this audit. I have already provided all the docs that Darren ever requested but if you still need more docs for this audit, please have your Manager contact me.

Masood Khan

119 Royal West Drive, Brampton, Ontario L6X 0V4

APPENDIX A**Canadian Helping Arms
Comments on Representations**

In our administrative fairness letter (AFL) dated January 4, 2023, we explained that the audit conducted by the Canada Revenue Agency (CRA) for the period from January 1, 2019 to December 31, 2020, identified that Canadian Helping Arms (the Organization) is not operating in compliance with the provisions of the Income Tax Act (the Act) in the following areas:

1. Failed to maintain adequate books and records; and
2. Failed to file an information return as and when required by the Act and/or its Regulations.

We have reviewed and considered the Organization's representations of January , 2023, and we maintain our position that the non-compliance issues identified during our audit represent a serious breach of the requirements of the Act. As a result, the Organization's registration as a charity should be revoked.

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

- A summary of the issues raised in our letter of January 4, 2023;
- A summary of responses provided by the Organization in its January 23, 2023 representation; and
- The CRA's response with respect to each issue.

Identified areas of non-compliance**1. Failed to maintain adequate books and records**

As stated in our AFL, due to the lack of adequate books and records, we were unable to verify the accuracy of information reported on the Organization's Form T3010, Registered Charity Information Return, for the 2019 and 2020 fiscal years, including the accuracy of reported revenue and expenditures. Specifically, the audit found that the Organization did not provide the following documentation:

- General ledger, including the trial balances, grouping schedules and adjusting journal entries.
- Details of the Organization's activities supported by copies of brochures, pamphlets, publications, membership and fundraising correspondence, newsletters, press releases, media-related materials, and other related literature.
- Copies of all minutes of board meetings.

Without the requested documentation listed above, we could not determine the Organizations governance, internal controls, or any significant changes that might have happened in the audit period.

The Organization's representations:

The Organization stated the following in its representations dated January 23, 2023: "Details of our Organization's activities are part of the return that you have access to, had you asked for any particular docs, we would have provided you. In your two years audit, I do not recall you asking for all those listed in your letter now." The Organization represented that "all related and required information is available at our office"; however the CRA failed to visit the office to check the books and records.

The Organization also stated, "For your two years audit, we provided you minutes of our annual meeting."

No corrective measures were proposed by the Organization to address the identified non-compliance.

CRA's findings:

Based on our review of the books and records provided, it remains our view that the Organization has not demonstrated that it has maintained adequate books and records pursuant to section 230 of the Act. During the audit period, the Organization was provided numerous opportunities to submit copies of books and records required for our review.

The CRA has the discretion to decide whether an audit will be conducted in person or virtually.¹ The audit confirmation letter provided to the Organization on May 4, 2022 stated that "the audit will be conducted virtually". Regardless of the type of audit conducted, a registered charity is obligated to maintain adequate books and records to 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 so as to allow the CRA to determine whether the charity's activities continue to be charitable at law. The onus is on the registered charity to provide that its charitable status should not be revoked.²

A listing of required books and records was sent to the Organization on May 4, 2022, along with an audit confirmation letter. The listing of required books and records outlined all the documents that were required as part of the audit. An additional letter was sent to the Organization on July 8, 2022, outlining that all the books and records requested in the letter dated May 4, 2022, have not yet been provided by the Organization. These outstanding books and records were also outlined in the AFL sent to the Organization on January 4, 2023. The Organization has not represented that the outstanding records do not exist due to a lack of operations, but that these records are all stored at its office should the CRA choose to conduct an onsite visit of the premises. During the audit, the only records provided for our review were two years of bank statements and material pertaining to the professional profile of the Organization's director.

¹ See What you should know about audits at: <https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/rc4188/what-you-should-know-about-audits.html>

² The Canadian Committee for the Tel Aviv Foundation v. Canada 2002 FCA 72

The Organization failed to provide accounting records such as the general ledger, including the trial balances, grouping schedules and adjusting journal entries. As a result, the CRA is unable to substantiate any of the amounts reported on the Organization's T3010, Registered Charity Information Returns, filed during the audit period.

During the audit, the CRA requested further information, including books and records, with regard to the Organization's activities. Specifically, while the Organization declared reduced operations during the fiscal years under review due to COVID-19, it also stated on its T3010 returns that it conducted the following ongoing and new programs in both 2019 and 2020:

- Media interviews and write-up to introduce charity to the public, aims and objectives to the potential donors
- Virtual meetings and zoom conferences with directors and potential donors
- Arranged to distribute used clothing, shoes, winter wear among Syrian refugees in town

The Organization failed to provide the CRA with any supporting information on the Organization's activities, such as copies of brochures, pamphlets, publications, membership and fundraising correspondence, newsletters, press releases, media-related materials, and other related literature to support representations that, despite reduced operations, it conducted charitable activities during the fiscal periods under review. 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.

While the Organization stated in its representations that it provided the CRA with minutes of its annual meeting, the CRA has no record of receiving this information. The CRA received replies from the Organization dated June 3, 2022, August 10, 2022, August 23, 2022, and January 23, 2023. Copies of board meeting minutes were not provided in any of the correspondence received from the Organization. While the Organization represented that it maintained these records at its office, it failed to provide a copy for our review, despite advising the Organization in our AFL that we did not have a copy.

An essential component of a charity audit is the ability to review and analyse an organization's meeting minutes in order to gain a proper understanding of the conduct of the organization's affairs. These records provide important information that is necessary to document matters such as the organization's operational focus and who exercises decision-making power over the use of its human, physical, and financial resources. Given the lack of any board meeting minutes and other books and records, the CRA was unable to determine whether the Organization's activities continue to be charitable.

After review of the representations provided by the Organization, our position remains that the Organization does not meet the requirements of subsection 230(2) of the Act. For this reason, there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(e) of the Act.

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

In our letter sent to the Organization on January 4, 2023, we identified numerous errors with the Organization's completion of the required Form T3010, Registered Charity Information Return, for the audit period.

The Organization's representations:

The Organization stated the following in its representations dated January 23, 2023: "We have never provided any information which is not factual, not sure what information you found that was not factual, it is true that most directors are related to me and find nowhere in the Act that this is not permitted for a small Ontario base charity." The Organization represented that it could not find a place to on the T3010 to declare non-receipted donations. The Organization also stated in its representations "1. We have not issued a single tax receipt. 2. We have never received a single donation."

The Organization's representations did not adequately address the non-compliance outlined in our AFL and no corrective measures were proposed by the Organization.

CRA's findings:

The Organization did not disclose on Form T1235 (Directors/Trustees and Like Officials Worksheet) that the Directors listed are not dealing with each other at arm's length. As well, the Organization is not meeting the requirement that more than 50% of the directors, trustees, officers or like officials deal at arm's length with each other. The response provided by the Organization in its letter dated January 23, 2023, states, "it is true that most directors are related to me and find nowhere in the Act that this is not permitted for a small Ontario base charity."

As per paragraph 149.1(1)(c) of the Act, a charitable organization means an organization where more than 50% of the directors, trustees, officers or like officials of which deal with each other and with each of the other directors, trustees, officers or officials must do so at arm's length. The audit results indicate that the Board of Directors do not deal with each other at arm's length. It was determined that all of the directors are related, therefore the charity should not be designated as a charitable organization.

It was stated in the representations from the Organization that they have not issued a single tax receipt or received a single donation. However, it was stated on the financial statement prepared by the Organization for the 2019 fiscal year that there was revenue amounting to \$500 with a note in brackets stating "Donation".

As well, the Organization reported under ongoing programs on section C2 of the Organization's Form T3010 for the 2019 fiscal year that there was not much activity due to the Covid-19 pandemic; however, the Covid-19 pandemic did not begin until the 2020 fiscal year.

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

3. Other

The Organization's letters of August 23, 2022, and January 23, 2023, allege that the audit was not conducted in a fair manner and that the CRA "made serious allegations and accusations" against the Organization.

The CRA has a responsibility as a regulator to ensure that organizations which have been granted the tax privileges of a registered charity are operating in a manner that complies with the requirements for such registration. During an audit, the CRA will examine the books and records of a charity to verify whether it continues to meet the registration requirements.

In making an administrative decision as to whether a charity continues to qualify for registered status, we take into account, and draw reasonable inferences from, all relevant information that is generally available to the public. We review and weigh all of the information collected during the audit to determine whether the charity has demonstrated that it continues to meet the common law and statutory requirements for registration.

When the CRA concludes an audit of a registered charity and the preliminary results indicate that the organization may not be adhering to its ongoing registration requirements, the CRA will issue an AFL.

The purpose of the AFL is two-fold:

1. to describe, and fully disclose to the charity the evidentiary basis for, our findings related to the identified areas of non-compliance; and
2. to provide the charity with an opportunity to respond to our concerns, to make available to the CRA any additional information, and to submit written representations and any relevant documentation as to why its charitable status should not be revoked.

The onus is on the charity to demonstrate that we have erred or that the audit should not result in revocation.

The CRA will fully consider the charity's representations, if any are made, and the Director General of the Charities Directorate will decide on the appropriate course of action. At issue is whether the evidence provided by the charity, together with information otherwise available to the CRA, satisfies us that the charity is devoting its resources to charitable activities and otherwise continues to meet the requirements for registration.

If the Organization believes that the CRA has not interpreted the facts or applied the law correctly, it can avail itself of its recourse rights as outlined in the cover of this letter. Under the

Taxpayer Bill of Rights, you also have the right to file a complaint if you are not satisfied with the service you receive from the CRA.³

Conclusion

For the reasons explained above and in our letter dated January 4, 2023, it is the CRA's position that the Organization has failed to meet the requirements for registration as a charitable organization as outlined in subsections 168(1) and 149.1(14) of the Act. As such, the Organization should have its registration as a charity revoked pursuant to subsection 168(1) of the Act.

³ See <https://www.canada.ca/en/revenue-agency/services/about-canada-revenue-agency-cra/complaints-disputes.html>

APPENDIX B

Qualified Donees

149.1 (1) Definitions

charitable foundation means a corporation or trust that is constituted and operated exclusively for charitable purposes, no part of the income of which is payable to, or is otherwise available for, the personal benefit of any proprietor, member, shareholder, trustee or settlor thereof, and that is not a charitable organization

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

- (a) constituted and operated exclusively for charitable purposes,
- (a.1) all the resources of which are devoted to charitable activities carried on by the organization itself,
- (b) no part of the income of which is payable to, or is otherwise available for, the personal benefit of any proprietor, member, shareholder, trustee or settlor thereof,
- (c) more than 50% of the directors, trustees, officers or like officials of which deal at arm's length with each other and with
 - (i) each of the other directors, trustees, officers and like officials of the organization,
 - (ii) each person described by subparagraph (d)(i) or (ii), and
 - (iii) each member of a group of persons (other than Her Majesty in right of Canada or of a province, a municipality, another registered charity that is not a private foundation, and any club, society or association described in paragraph 149(1)(l)) who do not deal with each other at arm's length, if the group would, if it were a person, be a person described by subparagraph (d)(i), and
- (d) that is not, at the particular time, and would not at the particular time be, if the organization were a corporation, controlled directly or indirectly in any manner whatever
 - (i) by a person (other than Her Majesty in right of Canada or of a province, a municipality, another registered charity that is not a private foundation, and any club, society or association described in paragraph 149(1)(l)),
 - (A) who immediately after the particular time, has contributed to the organization amounts that are, in total, greater than 50% of the capital of the organization immediately after the particular time, and
 - (B) who immediately after the person's last contribution at or before the particular time, had contributed to the organization amounts that were, in total, greater than 50% of the capital of the organization immediately after the making of that last contribution, or

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

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

- (a) registered by the Minister and that is
 - (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

$$\mathbf{A} - \mathbf{B}$$

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

$$\mathbf{A} - \mathbf{B}$$

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
 - (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.