



May 16, 2024

REGISTERED MAIL

Heather Rodin
President
Jabez Foundation / Fondation Jabez
2166 Parkhill Road West
Peterborough ON K9J 6X4

BN: 89079 2542 RR0001
Case number: 90992351

Dear Heather Rodin:

**Subject: Notice of intention to revoke
Jabez Foundation / Fondation Jabez**

We are writing with respect to our letters dated June 29, 2023, and January 18, 2024 (copies enclosed), in which the Jabez Foundation / Fondation Jabez (the Organization) was invited to respond to the findings of the review conducted by the Canada Revenue Agency (CRA) for the period from January 1, 2017, to December 31, 2021, and explain why the registration of the Organization should not be revoked in accordance with subsection 168(1) of the *Income Tax Act*.

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

Subsection 149.1(1) of the Act defines a “charitable foundation” to mean, in part, a corporation or trust that is **constituted** and **operated** for exclusively charitable purposes (emphasis added).

When considering the definition of a “registered charity”¹ in subsection 248(1) of the Act, along with the definition of a charitable foundation, found in subsection 149.1(1), it remains our opinion that a registered charity **must be active** (emphasis added), as defined in our previous letters.

Conclusion

It is our position that the Act requires a registered charity to be active in order to meet the requirements for its continued charitable registration, including operating in furtherance of charitable purposes, unless a reasonable explanation for suspension of operations is provided. The Minister of National Revenue has the authority to revoke charitable registration when an organization fails to meet these requirements.

¹ A **registered charity** is a corporate body, trust, or unincorporated association that is established in Canada, is resident in Canada, and is **registered** under the *Income Tax Act* as a charitable organization, public foundation, or private foundation.

It appears, based on our review, that the Organization no longer meets the requirements for charitable registration as it is not operating for charitable purposes and is not devoting its resources to charitable activities. Under subsection 149.1(4) of the Act, the Minister may revoke the registration of a private foundation for any reason described in subsection 168(1) of the Act. In the Organization's case, it has failed to comply with the requirements of the Act for its registration, and as such there are grounds to revoke its registration as a private foundation under paragraph 168(1)(b) of the Act.

For each of the reasons mentioned in our letter dated January 18, 2024, pursuant to subsection 168(1) of the Act, we propose to revoke the registration of the Organization. By virtue of subsection 168(2) of the Act, revocation will be effective on the date of publication of the following notice in the *Canada Gazette*:

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

Business number
890792542RR0001

Name
Jabez Foundation / Fondation Jabez
Peterborough ON

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

Consequences of revocation

As of the effective date of revocation:

- a) the Organization will no longer be exempt from Part I tax as a registered charity and **will no longer be permitted to issue official donation receipts**. This means that gifts made to the Organization would not be allowable as tax credits to individual donors or as allowable deductions to corporate donors under subsection 118.1(3) and paragraph 110.1(1)(a) of the Act respectively;
- b) by virtue of section 188 of the Act, the Organization will be required to pay a tax within one year from the date of the notice of intention to revoke. This revocation tax is calculated on Form T2046, Tax Return Where Registration of a Charity is Revoked (the Return). The Return must be filed, and the tax paid, on or before the day that is one year from the date of the notice of intention to revoke. The relevant provisions of the Act concerning the tax applicable to revoked charities can also be found in Appendix A. Form T2046 and the related Guide RC4424, Completing the Tax Return Where Registration of a Charity is Revoked, are available on our website at canada.ca/charities-giving;
- c) the Organization will no longer qualify as a charity for purposes of subsection 123(1) of the *Excise Tax Act*. As a result, the Organization may be subject to obligations and entitlements under the *Excise Tax Act* that apply to entities other than charities. This 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 1-888-830-7747 (Quebec) or 1-800-959-8287 (rest of Canada).

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,

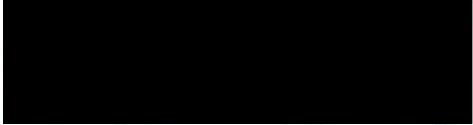
Sharmila P. Khare

Sharmila Khare
Director General
Charities Directorate

Enclosures

- CRA letter dated June 29, 2023
- CRA letter dated January 18, 2024
- Appendix A, *Relevant provisions of the Act*

c.c.:





January 18, 2024

Heather Rodin
President
Jabez Foundation / Fondation Jabez
2166 Parkhill Road West
Peterborough ON K9J 6X4

BN: 89079 2542 RR0001
Case #: 90992351

Dear Heather Rodin:

Subject: Review of Jabez Foundation / Fondation Jabez

This letter is further to our June 29, 2023, letter (copy enclosed), and our follow-up telephone calls on August 8, August 24, September 9, September 14, September 21, October 11, October 30, 2023, and December 18, 2023, with regards to our review of Jabez Foundation / Fondation Jabez (the Organization) as a registered charity under the *Income Tax Act*. The review related to the Organization's fiscal periods January 1, 2017, to December 31, 2021.

In our June 29, 2023, letter, we explained that we would contact the Organization by telephone to confirm receipt of our letter and to give the Organization the opportunity to identify which option¹ it had selected, and explain and/or provide the reasoning behind its choice. To date the Organization has not responded to our follow-up telephone calls. Without this information substantiating that the Organization is currently carrying on, or has plans to carry on, charitable activities, it is our view that the Organization no longer meets the designation requirements of a "charitable foundation".

As we have not received a reply to either our correspondence or our telephone calls, we hereby propose to revoke the Organization's registration based on the non-compliance with the provisions of the Act and/or its Regulations identified in our review:

| AREAS OF NON-COMPLIANCE | | |
|-------------------------|--|---------------------|
| | Issue | Reference |
| 1. | Failure to comply with the requirements of the Act as they apply to the Organization's designation | 149.1(1), 168(1)(b) |

The purpose of this letter is to describe the non-compliance identified during the course of the review as it relates to the legislative and common law requirements applicable to registered

¹ As detailed in our earlier letter the options were as follows:

- **Option A:** Submit a request to have its charitable registration voluntarily revoked.
- **Option B:** Retain its charitable registration by beginning or resuming activities that further its charitable purposes.
- **Option C:** Provide an explanation as to why it has not been using its resources to carry out charitable activities in furtherance of the charitable purposes for which it was established.

charities, as well as to provide the Organization with the opportunity to make additional representations or to present additional information. Registered charities must comply with the law, failing which, the Organization's registered status may be revoked in the manner described in section 168 of the Act.

The balance of this letter describes the identified area(s) of non-compliance in further detail.

Identified area(s) of non-compliance

1. Failure to comply with the requirements of the Act as they apply to the Organization's designation

Subsection 149.1(1) of the Act defines a "charitable foundation" to mean, in part, a corporation or trust that is **constituted** and **operated** exclusively for charitable purposes... (emphasis added)

In order to satisfy the definition of a "charitable foundation" pursuant to subsection 149.1(1) of the Act, an organization must meet two requirements: it must be both "constituted" and "operated" exclusively for charitable purposes.

The first requirement, to be "constituted" for exclusively charitable purposes, is achieved by having a governing document (letters patent, articles of incorporation, a constitution, or a trust document) that establishes the organization for exclusively charitable purposes and gives an organization its legal existence.² The Organization appears to have been constituted for charitable purposes based on our review of its letters patent dated November 27, 1996.

The second requirement is that the organization be "operated" for exclusively charitable purposes. The Oxford Canadian Dictionary defines "operate" (of a person or an organization) as "manage, work, control; put or keep in a functional state" and as to "be in action; function".³

Thus the second requirement is operational in nature and requires a determination as to whether an organization is "managed" or in a "functional state" by examining the specific activities undertaken or planned to be undertaken by the organization.

The definition of "charitable foundation" is expressed in the present tense, indicating an existing state of affairs. It is not enough that the organization was once "operated" for charitable purposes, it must continue to do so.

Under paragraph 168(1)(b) of the Act, the registration of a charity may be revoked if it ceases to comply with the requirements of the Act for its registration. As the Organization has not responded to our earlier correspondence or telephone calls, we have not been able to verify that it is currently operating, or has plans to begin operating, in accordance with the requirements of the

² All registered charities must be legally established by a governing document. Charitable organizations can be established as a corporation, a trust, or under a constitution. Charitable foundations can be established as a corporation or a trust.

³ University Press First Published 2000; reissued 2004.

Act, it appears there are grounds to revoke the Organization's status as a registered charity under paragraph 168(1)(b) of the Act.

If the Organization no longer intends to carry on charitable programs, it may request voluntary revocation of its registered status. If the Organization chooses to exercise this option, we require the request in writing. The written request must be signed and dated by an authorized representative we have on file. Once revoked, the Organization will no longer be required to complete Form T3010, *Registered Charity Information Return*. Additional consequences of voluntary revocation include:

- 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** (emphasis added). 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), or paragraph 110.1(1)(a), of the Act, respectively. Since the Organization has not issued any official donation receipts recently, this would not appear to be an issue.
- b) By virtue of section 188 of the Act, the Organization will be required to pay a tax within one year from the date stated in T2051A, *Notice of Intention to Revoke a Charity's Registration*. This revocation tax is calculated on prescribed Form T2046, *Tax Return Where Registration of a Charity is Revoked*.

Under the Act, a registered charity becomes liable to pay the revocation tax when it voluntarily gives up its registration, or when the CRA revokes its registration. The purpose of this tax is to ensure that charitable property is applied to charitable use. In essence, it requires a revoked charity to spend its money on its charitable programs or to donate it to an eligible donee. If the revoked charity does this, the tax may be zero.

To the extent that the charity fails to do this, the tax is set at the amount that remains, once outstanding debts have been paid. Persons connected with the charity can also be liable for the tax under certain circumstances.

Form T2046 must be filed, and the tax paid, on or before the day that is one year from the date stated in the T2051A. Form T2046 is available on our website at canada.ca/charities-giving.

Subsection 188(2) of the Act stipulates that a person (other than a qualified donee) who receives an amount from the charity is jointly, and severally liable with the charity, for the tax payable under section 188 of the Act by the charity.

- c) The Organization will no longer qualify as a charity for purposes of subsection 123(1) of the *Excise Tax Act* (the ETA). As a result, the Organization may be subject to obligations and entitlements under the ETA that apply to organizations other than charities. If you have any questions about your GST/HST obligations and entitlements, please call GST/HST Rulings at 1-888-830-7747 (Quebec) or 1-800-959-8287 (rest of Canada).

Under subsection 149.1(4) of the Act, the Minister may revoke the Organization's registration as a private foundation, in the manner as described at paragraph 168(1)(b) of the Act for failing to comply with the requirements of the Act for its registration as such.

The Organization's options:

a) Respond

If the Organization chooses to respond, it should 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. Its response must indicate which of the three options, as detailed in our original letter, it plans to choose. For your convenience, we have summarized the three options in the paragraphs below:

Option A – As discussed above, the Organization may choose to request that its status be revoked. 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. To assist you, should you wish to request that the Minister revoke the charitable registration of your organization, we have attached a *Voluntary Revocation of Registration* form that you may complete and return.

Option B – Retain its charitable registration by beginning or resuming activities that further its charitable purposes. In this regard, please provide us with a detailed description of the Organization's activities, along with an explanation as to how the Organization is operating, or will resume operating, in furtherance of its charitable purposes.

Option C – Provide an explanation as to why it has not been using its resources to carry out charitable activities in furtherance of the charitable purposes for which it was established. A registered charity must provide the CRA with sufficient information to clearly show that its programs and activities meet the legislative requirements to be eligible for continued registration. In this regard, please provide us with a detailed explanation as to why the Organization has not been actively engaged in charitable programs, as well as how and when the Organization plans to begin operations in the future.

After considering the Organization's 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.

If the Organization appoints a third party to represent it in this matter, send us a written request with the individual's name, the individual's contact information, and explicit authorization that the individual can discuss the file with us. The Organization can also go to canada.ca/tax-representative-authorization, in order to add a representative.

If you have any questions or require further information or clarification, please contact me at 514-258-8165. My manager, Julie McCaffrey, may also be reached at 613-850-7091.

Yours sincerely,

[REDACTED]
Jacques Jean-Louis
Charities Directorate
Canada Revenue Agency
Ottawa ON K1A 0L5

Enclosures

- CRA letter dated June 29, 2023
- *Voluntary Revocation of Registration*

c.c.:

Gordon Rodin [REDACTED]



Canada Revenue Agency Agence du revenu du Canada

Canada

Voluntary Revocation of Registration

To: Canada Revenue Agency (CRA)

From: _____

This is to advise you that _____
[Name of Charity and Registration/Business Number]

is hereby requesting that its status as a charitable registration under the Income Tax Act be revoked.

Dated at _____ this _____ day of _____ 20____

Signature: _____

Name: _____

Position within the charity: _____



June 29, 2023

Heather Rodin
President
Jabez Foundation / Fondation Jabez
2166 Parkhill Road West
Peterborough ON K9J 6X4

BN: 89079 2542 RR0001
Case #: 90992351

Dear Heather Rodin:

Subject: Review of Jabez Foundation / Fondation Jabez

The Canada Revenue Agency (CRA) has recently reviewed the operations of Jabez Foundation / Fondation Jabez (the Organization), as reported on its Registered Charity Information Return (Form T3010), for the periods from January 1, 2017 to December 31, 2021. The Organization's Form T3010s indicate the Organization has been inactive for the last five consecutive years.

A registered charity cannot be inactive and still meet the requirements of the Income Tax Act (the Act), as explained in detail below. If the Organization is currently inactive, it must choose to action one of the three following options:

Option A: Submit a request to have its charitable registration voluntarily revoked.

Option B: Retain its charitable registration by beginning or resuming activities that further its charitable purposes.

Option C: Provide an explanation as to why it has not been using its resources to carry out charitable activities in furtherance of the charitable purposes for which it was established.

Each of these options have different requirements that must be fulfilled. This letter provides the Organization with information on each option, as explained below, so it can make an informed choice.

Obligations of being a registered charity with the CRA

On January 1, 2007, the Organization was registered as a charity under subsection 149.1(1) of the Act. The Act requires both "charitable organizations" and "charitable foundations" to be **constituted and operated** exclusively for charitable purposes.

It is the CRA's view that to meet the legislative requirements for continued registration, it is not enough for a charitable organization or charitable foundation to be established exclusively for charitable purposes, but it must also be **actively** operating in a manner that advances or supports those charitable purposes.

The first requirement, to be "constituted" for exclusively charitable purposes, is achieved by having a governing document (letters patent, articles of incorporation, constitution, or trust document) that establishes the Organization for exclusively charitable purposes and gives it legal existence.¹ These documents were submitted to the CRA when the Organization applied for registration.

The second requirement is that the Organization be "operated" for exclusively charitable purposes. The Oxford Canadian Dictionary defines "operate" (of a person or an organization) as "manage, work, control; put or keep in a functional state" and has to "be in action; function".²

Thus the second requirement is operational in nature and requires a determination as to whether the Organization is "managed", or in a "functional state", by examining the specific activities it undertakes, or plans to undertake. This means that the Organization must be actively conducting charitable activities, either by directly engaging in activities that support its charitable purposes, or by making qualifying disbursements as defined in subsection 149.1(1) of the Act.

When a charity is inactive, or non-operational, it cannot demonstrate that it is supporting the second requirement. To remain compliant with the obligations of being a registered charity, the Organization must begin, or resume, charitable activities; provide a reasonable explanation for its inactivity; or request the revocation of its status as a registered charity under the Act.

Option A: Submit a request to have the Organization's charitable registration voluntarily revoked.

If the Organization no longer intends to carry on charitable programs, **it can ask to have its registration as a charity under the Act revoked.** To assist in this matter we have attached a Voluntary Revocation of Registration form that can be completed and returned to the following address:

Monitoring Section
Charities Directorate
Canada Revenue Agency
Ottawa ON K1A 0L5

¹ All registered charities must be established exclusively charitable purposes. A registered charity's governing document contains the purposes for which it was established and defines the parameters of how it operates. Charitable organizations can be established as a corporation, a trust, or under a constitution. Charitable foundations can be established as a corporation or a trust.

² University Press First Published 2000; reissued 2004.

Once this form is received, the CRA will issue a Form T2051A, Notice of Intention to Revoke a Charity's Registration, with a proposed revocation date, in the manner described in subsection 168(1) of the Act.

The Voluntary Revocation of Registration form must be signed and dated by a director, trustee, or another person authorized on file with the CRA to sign on the Organization's behalf (please review the Organization's bylaws and other governing documents to determine if more than one signature is required).

Once the Organization's registered status is revoked, it will no longer be required to submit a Form T3010, Registered Charity Information Return, on an annual basis. However, the following should be noted:

- a) The Organization will no longer be permitted to issue official donation receipts as it will no longer be exempt from Part I Tax as a registered charity. This means that any gifts made to the Organization will no longer be allowable as tax credits to individual donors or as allowable deductions to corporate donors under subsection 118.1(3), or paragraph 110.1(1)(a), of the Act, respectively. As the Organization has not issued any official donation receipts recently, this would not appear to be an issue.
- b) The Act stipulates that a revoked organization is required to either spend its remaining assets on its own charitable programs, donate those assets to an eligible donee,³ or pay a revocation tax within one year from the date of its change in registration status. In your case, if your Organization is not carrying on charitable programs, **any remaining assets must be donated to eligible donees or paid as revocation tax.**

Under the Act, a registered charity becomes liable to pay the revocation tax when it voluntarily gives up its registration, or when the CRA revokes its registration. The purpose of this tax is to ensure that charitable property is applied to charitable use. If the Organization chooses to spend its remaining assets on its own charitable programs or donate it to an eligible donee, the tax may be reduced to zero. Otherwise, the tax is set at the amount that remains once outstanding debts have been paid.

- c) The Organization will be required to complete one final return, a Form T2046, Tax Return Where Registration of a Charity is Revoked, which is available on our website at canada.ca/charities-giving. By virtue of section 188 of the Act, this revocation tax is calculated on prescribed Form T2046. This form must be completed by every registered charity when its registered status is revoked or when it voluntarily gives up its registration.

Option B: Retain its charitable registration by beginning or resuming activities that further the Organization's charitable purposes.

³ Under the Act, an eligible donee is a registered charity; that is not subject to a suspension of tax-receiving privileges; that is not subject to a security certificate under the Charities Registration (Security Information) Act; that has no unpaid liabilities under the Act or Excise Tax Act; that has filed all of its information returns; and of which more than 50% of the members of the board of directors or trustees deal at arm's length with each member of the board of directors or trustees of the particular charity.

To retain its charitable registration status, the Organization must begin or resume activities. Along with the privileges that come with being a registered charity, the Act imposes a number of operating requirements and obligations that the Organization must comply with, such as:

- devoting its resources (funds, personnel, and property) to its charitable purposes and activities which further those purposes;
- directing and controlling its resources;
- filing an annual Form T3010, Registered Charity Information Return, within six months of its fiscal period end;
- meeting its annual spending requirement (disbursement quota);
- keeping adequate books and records in Canada, and making them available for review by the CRA upon request;
- making sure that official donation receipts are complete and accurate when issued; and
- maintaining its status as a legal entity where applicable (provincial or federal).

Remember to inform the CRA of any changes to the charity's mode of operation or legal structure. Examples include, but are not limited to, a change in any of the following: address (mailing, physical, books and records), directors, legal or operating name, purposes, activities, or governing documents.

Option C: Provide an explanation as to why the Organization has not been using its resources to carry out charitable activities in furtherance of the charitable purposes for which it was established.

A registered charity must provide the CRA with sufficient information to clearly show that its programs and activities meet the legislative requirements for continued registration. Notwithstanding the foregoing, we appreciate that there can be a variety of legitimate circumstances which may prevent a registered charity from actively carrying out its operations as planned. If the Organization has not been actively engaged in charitable programs, please be prepared to provide a detailed explanation as to why, as well as how and when the Organization plans to begin operations in the future, when we contact you by telephone, as discussed below.

Next steps:

A representative from the Charities Directorate will contact the Organization by telephone in the next few weeks to confirm receipt of this letter. In the meantime, if you would like to speak with someone sooner, you may do so by contacting the individual named at the bottom of this letter. During this conversation the Organization will be given the opportunity to express which option it has selected. If the Organization selects option B or C, it will be given the opportunity to provide an explanation and the reasoning behind its decision. In addition, we can address any questions or concerns the Organization may have.

If the Organization wishes to remain registered, and neither you, nor the Organization's representative, have registered for CRA MyBA or Represent a Client and would like to do so, please go to canada.ca/cra-login-services. For more information on how to submit documents, go to canada.ca/cra-submit-documents-online.

Please note that the confidentiality provisions of the Act only allow us to discuss the content of this letter with an individual authorized to speak on the Organization's behalf. Normally this would be an individual listed as a current director/trustee on the Organization's most recent Form T1235, Directors/Trustees and Like Officials Worksheet, which is filed annually with its Form T3010.

Conclusion

We have brought the issue of the Organization's inactivity to your attention in order to assist the Organization in complying with the requirements of the Act as they relate to registered charities. We ask that you and the other members of the Organization's Board of Directors review the three options presented above and come to a determination about which option is best for the Organization.

If you have any questions, or require further information or clarification, please contact me at 514-258-8165.

Yours sincerely,

[REDACTED]
Jacques Jean-Louis
Charities Directorate
Canada Revenue Agency
Ottawa ON K1A 0L5

Enclosure:

- Voluntary Revocation of Registration



Canada Revenue Agency
Agence du revenu
du Canada

Canada

Voluntary Revocation of Registration

To: Canada Revenue Agency (CRA)

From: _____

This is to advise you that _____
[Name of Charity and Registration/Business Number]

is hereby requesting that its status as a registered charity under the Income Tax Act be revoked.

Dated at _____ this _____ day of _____ 20____

Signature: _____

Name: _____

Position within the charity: _____

The following is to be included if more than one signature is required, per the charity's bylaws:

Signature: _____

Name: _____

Position within the charity: _____

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

$$\mathbf{A - B}$$

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.