



November 7, 2024

**REGISTERED MAIL**

Arthur Tateishi  
Director  
Eventing Canada  
118 Water Street  
Grand Valley Ontario L9W5X5

BN: 88721 5275 RR0001  
Case number: [REDACTED]

Dear Arthur Tateishi

**Subject: Notice of intention to revoke**

We are writing with respect to our letter dated April 24, 2024 (copy enclosed), in which Eventing Canada (the Organization) was invited to respond to the findings of the audit conducted by the Canada Revenue Agency (CRA) for the period from February 29, 2020, to February 28, 2022. Specifically, the Organization was asked to explain why its registration as a Canadian amateur athletic association (RCAAA) should not be revoked in accordance with subsection 168(1) of the *Income Tax Act*.

On May 6, 2024, and May 11, 2024, the Organization provided email responses to our letter dated April 24, 2024. We note that the response of May 6, 2024, concerned the topic of spoiled donation receipts, which related to a concern raised in the Organization's previous audit, for the fiscal period ending February 28, 2010. However, this issue was not identified as an area of non-compliance in the current audit and the responses failed to provide any additional information or documentation to acknowledge or address the non-compliance identified during the current audit. Lastly, on October 11, 2024, the Organization provided an email response to the Notice of Intention to Revoke due to failure to file form T2052 dated October 3, 2024. The email stated that the missing financial statements were sent in May 2023, however they were not received.

As such, the Organization has not alleviated our concerns with respect to the non-compliance identified in the current audit.

**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 operate within the prescribed definition and rules of registration for an RCAA; failed to maintain adequate books and records; and failed to file Form T2052, *Registered Canadian amateur athletic association Information Return*. 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 as a registered Canadian amateur athletic association.

Consequently, for the reasons mentioned in our letter dated April 24, 2024, and pursuant to subsection 168(1) and 149.1(14) of the Act, we hereby notify you of our intention to revoke the status of the Organization as a registered Canadian amateur athletic association. By virtue of subsection 168(2) of the Act, the revocation will be effective on the date of publication of the following notice in the *Canada Gazette*:

Notice is hereby given, pursuant to paragraphs 168(1)(b), 168(1)(c) and 149.1(4.2) of the *Income Tax Act*, of our intention to revoke the registration of the registered Canadian amateur athletic association listed below and that by virtue of paragraph 168(2)(a) thereof, the revocation of registration will be effective on the date of publication of this notice in the *Canada Gazette*.

<b>Business number</b>	<b>Name</b>
887215275RR0001	Eventing Canada Grand Valley Ontario

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

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

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

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

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

### **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) the Organization will no longer qualify as a charity for purposes of subsection 123(1) of the *Excise Tax Act*. As a result, the Organization may be subject to obligations and entitlements under the *Excise Tax Act* that apply to entities other than charities that may result in significant changes in how the Organization calculates its Goods and Services Tax/Harmonized Sales Tax (GST/HST) to be collected, input tax credits, and rebate entitlements. If you have any questions about your GST/HST obligations and entitlements, please go to [canada.ca/gst-hst](http://canada.ca/gst-hst) or call GST/HST Rulings at 1-888-830-7747 (Quebec) or 1-800-959-8287 (rest of Canada).

### **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 April 24, 2024
- Appendix A, Relevant provisions of the Act



April 24, 2024

Arthur Tateishi  
Director  
Eventing Canada  
118 Water Street  
Grand Valley Ontario L9W5X5

BN: 88721 5275 RR0001  
Case Number: [REDACTED]

Dear Arthur Tateishi:

**Subject: Audit of Eventing Canada**

This letter results from the audit of Eventing Canada (the Organization) conducted by the Canada Revenue Agency (CRA). The audit related to the operations of the Organization for the period of February 29, 2020, to February 28, 2022.

**Background**

The Organization was incorporated under section 248(1) of the Income Tax Act on March 1, 1998, and registered as a Registered Canadian amateur athletic association (RCAAA) effective March 1, 1998. The Organization was established to

- (a) Educate and train Canadian Equestrian Athletes(both human and equine) in the Olympic Sport of Three Day Event, from the grass roots (domestic) to elite (Olympic and World Championship) level.
- (b) To develop the Sport of Eventing in Canada;
- (c) To enhance the profile of Eventing across the country;
- (d) To safeguard the welfare of participating horses;
- (e) To provide training and competitive opportunities for both Human and Equine Athletes in Eventing.

The Organization was previously audited for its 2010 fiscal period, and, as a result of the non-compliance issues identified, an education letter was issued. The education letter identified the specific areas of non-compliance with the Income Tax Act and its Regulations, which included issues with official donation receipts, inaccuracies in the financial statements and the Registered Charity Amateur Association Information return. Also noted in the prior audit, the Organization was also found to be destroying copies of its cancelled donation receipts.

The CRA must be satisfied that an RCAAAs activities directly further its purposes in a manner permitted under the Act. In making a determination, we are obliged to take into account all relevant information. Accordingly, the current audit encompassed an enquiry

into all aspects of the Organization's operations. The fact that some of the areas of non-compliance identified in this letter may, or may not, have been evaluated in preceding audits does not preclude the need for compliance with existing legal requirements. Furthermore, the CRA may take a position that differs from that reached previously based on reconsideration of the pertinent facts and law.<sup>1</sup>

As a result of our audit, the CRA has identified specific areas of non-compliance with the provisions of the *Income Tax Act* and/or its *Regulations* in the following areas.

AREAS OF NON-COMPLIANCE		
	Issue	Reference
1.	<b>Failed to be established as an RCAAAs</b>	248.(1)
2.	<b>Failed to maintain adequate books and records</b>	230.(2)
3.	<b>Failed to file Form T2052, Registered Canadian amateur athletic association Information Return</b>	149.1(14)

This letter describes the areas of non-compliance identified by the CRA relating to the legislative and common law requirements applicable to RCAAAs, and offers the Organization an opportunity to respond and present additional information. RCAAAs must comply with the law, failing which the RCAAAs registered status may be revoked in the manner prescribed in section 168 of the Act.

#### **Eligibility for registration**

To qualify for registration as a RCAAAs under the Act, an organization must have as its exclusive purpose and its exclusive function the promotion of amateur athletics in Canada on a nation-wide basis.

As stated by the Supreme Court of Canada in *A.Y.S.A. Amateur Youth Soccer Association v. Canada Revenue Agency*:

It is clear from the wording of the definition of RCAAAs in s.248 (1) [of the *Act*], that Parliament intended the benefit of RCAAAs status to be available only to nationwide associations...

The precise and unequivocal meaning of the RCAAAs provisions is to grant certain charity-like advantages to nationwide amateur athletic associations.<sup>2</sup>

Accordingly, the test for eligibility is two-fold, requiring an organization to have:

<sup>1</sup> Canadian Magen David Adom for Israel v MNR, 2002 FCA 323 at para 69.

<sup>2</sup> (2007) S.C.R. 42 at paragraphs 12, 13 and 17.

- formal **purposes** that clearly define its scope to be the promotion of a form of amateur athletics in Canada on a nation-wide basis, and
- a program of **activities** designed to achieve this end that is carried out on a national scale.

### **Identified area of non-compliance**

#### **1. Failed to be established as an RCAA**

##### **Legislation**

As outlined above, an RCAA must also have as its exclusive function the promotion of amateur athletics in Canada on a nation-wide basis. Indicators that an RCAA has such a function would include the conduct of most, if not all, of the following activities on a national scale:

- a. to regulate a sport and the way it is played;
- b. to promote the sport;
- c. to oversee a structure of local clubs, and regional and provincial bodies involved in the sport;
- d. to operate a training program that brings promising athletes from the grass-roots level to national and international levels through various qualifying competitive events;
- e. to operate a national team to participate at international competitions;
- f. to stage and sanction local, regional, provincial and national competitions;
- g. to act as a Canadian representative of an international federation controlling the sport;
- h. to provide a training and certification program for coaches and referees;
- i. to carry out fund-raising activities and re-distribution of funds for local, regional and provincial member organizations.

##### **Audit findings**

Based on the lack of information and documentation provided during the audit, it appears that the Organization has not been established for the exclusive purpose, and the exclusive function, of promoting amateur athletics for equestrian in Canada on a nation-wide basis.

The Organization has not provided us with any documentation to support its claims that it is established for the exclusive purpose and function of promoting amateur athletics in Canada on a nation wide basis. There are no current documents to show the Organization's involvement in the regulation of the sport and the website has not been updated since 2020.

In light of the above, there are grounds to revoke the RCAAAs status of the Organization in the manner described in subsection 168(1) of the Act.

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

### **Legislation**

Subsection 230(2) of the Act requires that every RCAAAs shall maintain adequate records<sup>3</sup> 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 an RCAAAs 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 RCAAAs 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, an RCAAAs books and records must allow the CRA to verify the RCAAAs revenues and expenses, as well as any official donation receipts it may have issued. Further, the Act requires that an RCAAAs records contain such information to allow the CRA to determine whether the RCAAAs 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:

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<sup>3</sup> Subsection 248(1) of the Act defines a record in the following way: "record includes an account, an agreement, a book, a chart or table, a diagram, a form, an image, an invoice, a letter, a map, a memorandum, a plan, a return, a statement, a telegram, a voucher, and any other thing containing information, whether in writing or in any other form."

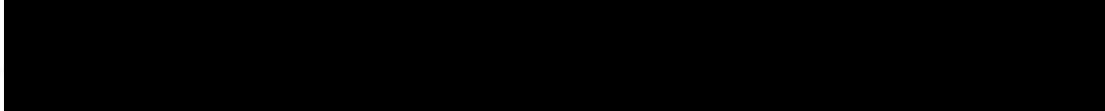
- (a) the records and books of account referred to in this section in respect of which a period is prescribed, together with every account and voucher necessary to verify the information contained therein, for such period as is prescribed; and
- (b) all other records and books of account referred to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

While paragraph 230(2)(a) of the Act does not explicitly set out the types of books and records that an RCAAAs 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 an RCAAAs under the Act, the Minister must be able to monitor the continuing entitlement of RCAAAs to those privileges.

#### **Audit findings**

The audit indicated that the Organization failed to satisfy the requirements of subsections 230(2) and 230(4) of the Act as its books and records were incomplete and the CRA could not verify its revenues, expenses, assets, or liabilities. In addition, the books and records failed to demonstrate that the Organization is eligible for registration as an RCAAAs with the exclusive function to promote amateur athletics in Canada on a nationwide basis.

In an email dated October 10, 2023, the Organization provided figures presumably representing their assets and explained that it has not maintained its General Ledger since 2020. The email further explained that it has not received any donations or issued any official donation receipts, other than the \$30,000 donation that the director made for the purchase of a horse for his grandson. No documentation was provided to support this purchase or the donation.



Arthur stated that due to COVID there were no clinics at the farm during the audit period from 2020-02-29 to 2022-02-28. The Organization further stated that it supported its' athletes through bursaries, training opportunities, as well as the purchase of two horses. The purchase of the horses was for Arthur's [REDACTED] and two others. Arthur stated that the board approved the purchase for his [REDACTED] which would be considered a private benefit and not in support of a charitable purpose. No documents, including board meeting minutes, have been provided to support any of these claims by the Organization.

The information provided is not sufficient to demonstrate that the Organization is compliant with the Act and its Regulations. The Organization failed to provide

documents such as a general ledger, a listing of donation receipts, bank statements, samples to support the Organization's activities (for example, newsletters, brochures), an accurate listing of directors and trustees, meeting minutes, complete financial statements, reconciliations/trial balances, official donation receipts or any invoices for the upkeep of facilities/horses.

No documents were provided to confirm what the Organization is reporting in terms of bursaries and training opportunities. Arthur has previously said he has all of these documents somewhere but it would take years to go thorough. Due to the lack of documentation provided, we are unable to verify any revenues, expenses and activities by the Organization.

The Organization did not provide documentation to support its claims. The Organization was provided with several opportunities to provide these documents but as of yet has not done so. We proceeded with the audit with the limited information we had available to us and in conclusion we believe there are grounds for revocation of the RCAAA status of the Organization in the manner described in subsection 168(1) of the Act.

### **3. Failed to file Form T2052, Registered Canadian amateur athletic association Information Return**

#### **Legislation**

Subsection 149.1(14) of the Act states:

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

In addition, paragraph 168(1)(c) of the Act states that the Minister may "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...fails to file an information return as and when required under this Act or a regulation."

It is the responsibility of an RCAAA to ensure that the information provided in its Form T2052, schedules and statements, is factual and complete in every respect. An RCAAA 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.

#### **Audit findings**

The Organization's fiscal period starts March 1 and ends on February 28, and our records indicate it has failed to file its Form T2052 for its fiscal periods ending 2023, 2022, 2021, 2020, and 2018. The Organization was contacted on July 4, 2023 to inform that it had been selected for an audit. Prior to the start of the current audit, the CRA sent the Organization letters reminding the Organization to file its Form T2052 on June 4, 2019, August 1, 2019, October 4, 2020, December 4, 2020, February 2, 2021, June 7, 2021, August 5, 2021, October 21, 2021, June 7, 2022, August 4, 2022, October 5, 2022, June 7, 2023, August 4, 2023 and October 4, 2023.

The Organization indicated that it was unable to file its Form T2052s when required, and could not provide them during the audit as;

- It had previously sent its Form T2052 for the fiscal periods ending February 28, 2018, February 28, 2020, February 28, 2021, February 28, 2022, February 28, 2023 and while the Organization does have copies, they are in boxes and cannot be provided in a reasonable time frame.
- For 21 months [REDACTED] no other board members were available to contribute to the management of the Organization.

In lieu of the current outstanding Form T2052s, the Organization submitted directly to the Auditor limited financial information in an email dated October 9, 2023, and a letter dated August 17, 2023. The financial information included assets and liabilities of:

Cash \$25  
A/R \$62,000 (HST rebate)  
Liabilities of:  
\$1,250 (patent attorney)

As well as the valuation of four horses owned by Eventing Canada, the valuation is \$30,000. Arthur stated that only one horse is currently competing as the other three have been retired. He also includes that the directors are most excited about the prospect of royalties which are anticipated from the sales of the patent-pending safety top hat. Again, there has been no supporting documentation provided to verify any of this information and is not a sufficient replacement for the missing Form T2052s described above.

The Organization was sent numerous reminders to file its T2052 return over the years.

[REDACTED] Arthur, the main director, [REDACTED] He stated that he submitted all necessary documents but we have no documents to support his claims. As a result, we proceeded with the audit with what limited documents we had access to. In light of this information, there are grounds for revocation of the RCAA status of the Organization in the manner described in subsection 168(1) of the Act.

#### **CRA's position**

Based on the information provided during the audit, it appears that the Organization has not been constituted for the exclusive purpose, and the exclusive function, of promoting amateur athletics in Canada on a nation-wide basis. As such, the Organization does not appear to qualify as a registered Canadian amateur athletic association under the Act and we are therefore proposing revocation of the RCAA status of the Organization in the manner described in subsection 168(1) of the Act.

### **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 the implementation of 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 RCAA status 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 RCAA status of the Organization in the manner described in subsection 168(1) of the Act.

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

After considering the Organization's response to this letter, the Minister may decide to exercise her authority to revoke its charitable registration. If so, the Minister will issue a notice of intention to revoke the Organization's registration and will indicate in the notice

whether the Minister intends to publish the notice in the *Canada Gazette* immediately after the expiration of 30 days from the date of the mailing of the notice.

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

If you have any questions or require further information or clarification, please do not hesitate to call me at the numbers indicated below. My team leader, Shaunessey Fawthrop, may also be reached at 902-222-9869.

Yours sincerely,

Bryceson Musgrave  
Charity Audit  
Sydney, TSO

Telephone: 343-552-5251  
Toll Free: 1-800-267-2384  
Facsimile: 902-564-3095  
Address: 47 Dorchester Street Sydney NS B1P 7H5

c.c.: Arthur Tateishi

**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

$$\mathbf{A - B}$$

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

where

**A** is the fair market value of the property on that day, and

**B** is the amount of any consideration given to the foundation for the transfer.

**189 (6) Taxpayer to file return and pay tax**

Every taxpayer who is liable to pay tax under this Part (except a charity that is liable to pay tax under section 188(1)) for a taxation year shall, on or before the day on or before which the taxpayer is, or would be if tax were payable by the taxpayer under Part I for the year, required to file a return of income or an information return under Part I for the year,

- (a) file with the Minister a return for the year in prescribed form and containing prescribed information, without notice or demand therefor;
- (b) estimate in the return the amount of tax payable by the taxpayer under this Part for the year; and
- (c) pay to the Receiver General the amount of tax payable by the taxpayer under this Part for the year.

**189 (6.1) Revoked charity to file returns**

Every taxpayer who is liable to pay tax under subsection 188(1.1) for a taxation year shall, on or before the day that is one year from the end of the taxation year, and without notice or demand,

- (a) file with the Minister
  - (i) a return for the taxation year, in prescribed form and containing prescribed information, and
  - (ii) both an information return and a public information return for the taxation year, each in the form prescribed for the purpose of subsection 149.1(14); and
- (b) estimate in the return referred to in subparagraph (a)(i) the amount of tax payable by the taxpayer under subsection 188(1.1) for the taxation year; and
- (c) pay to the Receiver General the amount of tax payable by the taxpayer under subsection 188(1.1) for the taxation year.

**189 (6.2) Reduction of revocation tax liability**

If the Minister has, during the one-year period beginning immediately after the end of a taxation year of a person, assessed the person in respect of the person's liability for tax under subsection 188(1.1) for that taxation year, has not after that period reassessed the tax liability of the person, and that liability exceeds \$1,000, that liability is, at any particular time, reduced by the total of

- (a) the amount, if any, by which
  - (i) the total of all amounts, each of which is an expenditure made by the charity, on charitable activities carried on by it, before the particular time and during the period (referred to in this subsection as the "post-assessment period") that begins immediately after a notice of the latest such assessment was sent and ends at the end of the one-year period

exceeds

- (ii) the income of the charity for the post-assessment period, including gifts received by the charity in that period from any source and any income that would be computed under section 3 if that period were a taxation year, and

(b) all amounts, each of which is an amount, in respect of a property transferred by the charity before the particular time and during the post-assessment period to a person that was at the time of the transfer an eligible donee in respect of the charity, equal to the amount, if any, by which the fair market value of the property, when transferred, exceeds the consideration given by the person for the transfer.

**189 (6.3) Reduction of liability for penalties**

If the Minister has assessed a particular person in respect of the particular person's liability for penalties under section 188.1 for a taxation year, and that liability exceeds \$1,000, that liability is, at any particular time, reduced by the total of all amounts, each of which is an amount, in respect of a property transferred by the particular person after the day on which the Minister first assessed that liability and before the particular time to another person that was at the time of the transfer an eligible donee described in paragraph 188(1.3)(a) in respect of the particular person, equal to the amount, if any, by which the fair market value of the property, when transferred, exceeds the total of

- (a) the consideration given by the other person for the transfer, and
- (b) the part of the amount in respect of the transfer that has resulted in a reduction of an amount otherwise payable under subsection 188(1.1).

**189 (7) Minister may assess**

Without limiting the authority of the Minister to revoke the registration of a registered charity or registered Canadian amateur athletic association, the Minister may also at any time assess a taxpayer in respect of any amount that a taxpayer is liable to pay under this Part.