



December 7, 2023

REGISTERED MAIL

Robert Tate
Secretary/Treasurer
Ontario DeMolay Foundation
59 Holitman Dr
Nepean ON K2J 2S5

BN: 890947542RR0001
Case number: 71030541

Dear Robert Tate:

**Subject: Notice of intention to revoke
Ontario DeMolay Foundation**

We are writing with respect to our letter dated February 9, 2023 (copy enclosed), in which Ontario DeMolay Foundation (the Organization) was invited to respond to the findings of the audit conducted by the Canada Revenue Agency (CRA) for the period from January 1, 2018 to December 31, 2019. Specifically, the Organization was asked to explain why its registration should not be revoked in accordance with subsection 168(1) of the *Income Tax Act*.

In our February 9, 2023, letter, we explained that the audit conducted by the CRA had identified that the Organization:

1. It is not constituted and operated exclusively for charitable purposes
2. Failed to devote resources to charitable activities carried on by the Organization itself – Gifted to non-qualified donee
3. Failed to file an information return as and when required by the *Income Tax Act* and/or its Regulations.

We have now reviewed the Organization's April 29, 2023, response, and it remains our position that the non-compliance issues listed above have not been alleviated and represent a serious breach of the requirements of the Act. Despite the Organization's response, for the reasons explained below, it has not addressed our concerns regarding the identified areas of non-compliance. As such, it remains our position that the Organization's registration as a charity should be revoked.

Please find below:

- A summary of the issues raised in our February 9, 2023, letter;
- A summary of the Organization's representations as provided in its April 29, 2023, response; and
- The CRA's response with respect to each issue.

1. It is not constituted and operated exclusively for charitable purposes

It is our position that the Organization is not constituted and operated exclusively for charitable purposes. To qualify as a registered charity, the Organization must be established with a governing document which clearly defines the charitable purposes for which it will operate and the beneficiaries of the activities it carries out must be the public-at-large, or a sufficient segment thereof. Based on our review, the Organization does not have a governing document, and the activities it undertakes suggest it is operating as a non-charitable members' group. Accordingly, the Organization has failed to meet the requirements of subsections 149.1(1) of the *Act* that it be constituted and operated exclusively for charitable purposes. For this reason, it appears there may be grounds for to revoke the Organization's registration as a charity under paragraph 168(1)(b) of the *Act*.

a) Governing document

The Organization was registered as a charity under the *Act* on September 10, 1989, on the basis of a letter of affiliation with Canadian DeMolay Foundation of Canada (CDF). At the time of registration, the Organization did not provide CRA with a copy of the CDF's governing document, nor has a copy been provided to the CRA during the course of this audit. Consequently, it appears that the Organization was not established with a governing document, and without such a document we are unable to verify that the Organization has been established and operates for clearly defined and exclusively charitable purposes. While it is possible to be registered as a charity as an internal division of an existing registered charity, this does not appear to be the case with the Organization, as its business number is separate and distinct from that of the CDF.

b) Activities

During the fiscal periods under audit the Organization reported the following amounts at line 4910, "Research grants and scholarships as part of its charitable activities, on its Form T3010, Registered Charity Information Returns (Form T3010): \$5,587 in 2018, and \$5,907 in 2019 or 78%, and 98% of the Organization total expenses of \$7,048 and \$6,005, respectively. The audit determined these expenses were incurred solely for the purpose of reimbursing other DeMolay chapters in Ontario for expenses related to members of those chapters attending DeMolay-related conferences in Pennsylvania, the DeMolay International Session in Washington, various Centennial Celebrations, and to help Simcoe Grey York DeMolay with a garden. It is the CRA's position that the entities reimbursed by the Organization are not qualified donees, as they are not themselves registered charities or otherwise considered qualified donees under the *Act*, and even if these entities were qualified donees, the expenses incurred by the Organization were to

reimburse members of various Ontario DeMolay Chapters, or the Chapters themselves, for member-related activities, and thus do not meet the public benefit test.

Organization's representations:

a) Governing document

The Organization provided the following:

- Form T2050, *Canadian Charities and Canadian Amateur Athletic Associations Application for Registration*;
- Activities and program statement;
- Estimated expenditures to be made the first year of operation;
- A list of officer and directors, scanned March 31, 2013; and
- Bylaws of the Ontario DeMolay Foundation adopted October 3, 2014

b) Activities

The Organization provided the following description of its activities, "Donations [are used to] fund training and education for members and adult volunteers. Member training life skills which include Time & Resources Management, Public Speaking, Management Experience and understanding the obligations of a law abiding citizen to name a few. The emphasis Adult Volunteer Training shifted around the year 2000 to include the understanding the boundaries when dealing with youth, legal and mail. As a result, the training became more thorough and as a result, lengthy."

CRA's response:

a) Governing documents

The documentation provided failed to alleviate our concern that the Organization has been established and operated for charitable purposes. While the Organization provided bylaws it adopted October 3, 2014, it did not provide a governing document, such as, a constitution, incorporating document¹ or trust document. Without such a document we are unable to verify whether the Organization has been established and operates for exclusively charitable purposes.

b) Activities

The Organization's response has failed to alleviate our concern regarding its failure to meet the public benefit test, as all of the documentation provided during the audit demonstrates that the majority of the Organization's funds were

¹ A search on Innovation, Science and Economic Development Canada, [Search for a Federal Corporation - Online Filing Centre - Corporations Canada - Corporations - Innovation, Science and Economic Development Canada](#), determined that the Organization does not have an incorporating document.

disbursed to DeMolay Chapters in Ontario, all of which are non-qualified donees. The Organization stated in its April 29, 2023, representations that it was created to support its members at the provincial and local chapter levels. CRA considers "members' groups" to be non-charitable, as they are usually formed exclusively to further their own interests and/or the interests of their members, and therefore lack the necessary element of altruism required to be charitable at law. Their direct benefits are tied primarily to membership and are available only to members, and as a result the transfer of resources to other DeMolay Chapters to reimburse those chapters for member related expenses does not meet the public benefit test.

Based on our review of the Organization's representations, it remains our position that the Organization has failed to meet the requirements of subsection 149.1(1) of the *Act* that it be constituted and operated exclusively for charitable purposes, as it does not appear to have been established with a governing document that defines and limits its operations accordingly, and it has failed to meet the public benefit test. For this reason there are grounds to revoke the Organization's registration as a charity under paragraph 168(1)(b) of the *Act*.

2. Failed to devote resources to charitable activities carried on by the Organization itself – Gifted to non-qualified donee

It is our position that the Organization failed to comply with subsection 149.1(1) of the *Act* by disbursing funds to non-qualified donees. Specifically, the majority of the Organization's funds (\$5,587 in 2018, and \$5,907 in 2019, or 78% and 98%, respectively, of its total expenses) were disbursed by way of gift to different DeMolay Chapters in Ontario, which are non-qualified donees.

Organization's representations:

The Organization stated it was created to support its members, which belong to the provincial and local DeMolay Chapters. Its expenditures support its mandate by covering the costs incurred by members and adult volunteers when they attend training sessions.

CRA's response:

The Organization's explanation does not alleviate our concern that the Organization made gifts to non-qualified donees during the audit period. While the Organization was registered on the understanding its activities would largely support DeMolay Chapters, the audit determined that its sole activity was gifting substantially all of its resources (78% in 2018 and 98% in 2019) to various DeMolay Chapters, which do not appear to be qualified donees, in order to reimburse costs incurred by their members. As noted above, even if the provincial and local DeMolay Chapters were qualified donees, the primary purpose of the Organization's disbursements was to reimburse DeMolay members for expenses incurred for training courses and for attending conferences, which suggests the Organization is functioning primarily as a non-charitable members' group.

Consequently, it remains our position that the Organization has failed to comply with subsection 149.1(1) of the *Act* by disbursing funds to non-qualified donees or otherwise failing to devote its resources to charitable activities. For this reason there are grounds to revoke the Organization's registration as a charity under paragraphs 149.1(2)(c) and 168(1)(b) of the *Act*.

3. Failed to file an information return as and when required by the *Income Tax Act* and/or its Regulations

It is our position that the Organization failed to comply with subsection 149.1(14) of the *Act* by failing to file an accurate Form T3010 for both fiscal periods under audit. Specifically, the Organization completed both Section D: Financial Information, and Schedule 6: Detailed information, and failed to provide a breakdown on lines 5000, "Total expenditures on charitable activities", 5010, "Total expenditures on management and administration", 5050, "Total expenditures on fundraising", and 5040, "Total other expenditures included in line 4950".

Organization's representations:

The Organization stated that it is still investigating the issues surrounding its Form T3010s as some of the individuals involved during the period under audit have passed away and that its current members are reviewing its archived files.

CRA's response:

Unfortunately this response does not resolve the identified non-compliance, and as such, it remains our position that the Organization has failed to comply with the *Act* by filing an inaccurate Form T3010, and for this reason there are grounds to revoke the Organization's registration as a charity under paragraph 168(1)(c) of the *Act*.

Conclusion

The audit by the CRA found that the Organization is not complying with the requirements for registration as a charity as set out in the *Act*. In particular, the audit found that the Organization is not constituted and operated exclusively for charitable purposes, failed to devote resources to charitable activities carried on by the Organization itself, made gifts to non-qualified donees, and failed to file an information return as and when required by the *Act* and/or its Regulations. This non-compliance constitutes a serious breach of the requirements for registration. For these reasons, it is our position that the Organization no longer meets the requirements for charitable registration.

Consequently, for the reasons mentioned in our letter dated February 9, 2023, and pursuant to subsection 168(1)(b), 168(c), and 149.1(2)(c) of the *Act*, we hereby notify you of our intention to revoke the registration of the Organization. By virtue of

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

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

Business number	Name
890947542RR0001	Ontario DeMolay Foundation Nepean ON

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

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

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

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

Consequences of revocation

As of the effective date of revocation:

- a) the Organization will no longer be exempt from Part I tax as a registered charity and **will no longer be permitted to issue official donation receipts**. This means that gifts made to the Organization would not be allowable as tax credits to individual donors or as allowable deductions to corporate donors under subsection 118.1(3) and paragraph 110.1(1)(a) of the *Act* respectively;

- b) by virtue of section 188 of the *Act*, the Organization will be required to pay a tax within one year from the date of the notice of intention to revoke. This revocation tax is calculated on Form T2046, Tax Return where Registration of a Charity is revoked. Form T2046 must be filed, and the tax paid, on or before the day that is one year from the date of the notice of intention to revoke. The relevant provisions of the *Act* concerning the tax applicable to revoked charities can also be found in Appendix A. Form T2046 and the related Guide RC4424, Completing the Tax Return where Registration of a Charity is revoked, are available on our website at canada.ca/charities-giving;
- c) the Organization will no longer qualify as a charity for purposes of subsection 123(1) of the *Excise Tax Act*. As a result, the Organization may be subject to obligations and entitlements under the *Excise Tax Act* that apply to entities other than charities that may result in significant changes in how the Organization calculates its Goods and Services Tax/Harmonized Sales Tax (GST/HST) to be collected, input tax credits, and rebate entitlements. If you have any questions about your GST/HST obligations and entitlements, please go to canada.ca/gst-hst or call GST/HST Rulings at 1-888-830-7747 (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,

[Signature]

Sharmila Khare
Director General
Charities Directorate

Enclosures

- CRA letter dated February 9, 2023
- Organization's representations dated April 29, 2023
- Appendix A, Relevant provisions of the *Act*

c.c.:

Secretary - Treasurer



February 9, 2023

Robert Tate
Secretary/Treasurer
Ontario DeMolay Foundation
59 Holitman Dr
Nepean ON K2J 2S5

BN: 890947542RR0001
Case #: 71030541

Dear Robert Tate:

Subject: Audit of Ontario DeMolay Foundation

This letter results from the audit of the Ontario DeMolay Foundation (the Organization) conducted by the Canada Revenue Agency (CRA). The audit related to the Organization's operations for the fiscal periods ending December 31, 2018, and December 31, 2019.

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

AREAS OF NON-COMPLIANCE		
	Issue	Reference
1.	It is not constituted and operated exclusively for charitable purposes a) Governing document b) Activities	149.1(1) 168(1)(b)
2.	Failed to devote resources to charitable activities carried on by the Organization itself – Gifted to non-qualified donee	149.1(1) 149.1(2)(c) 168(1)(b)
3.	Failed to file an information return as and when required by the Act and/or its Regulations	149.1(14), 149.1(2), 168(1)(b), and 168(1)(c)

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

Identified areas of non-compliance

1. It is not constituted and operated exclusively for charitable purposes

Legislation and jurisprudence:

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

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

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

The public benefit requirement involves a two-part test:

- The first part of the test requires the delivery of a benefit that is recognizable and capable of being proved, and socially useful. To be recognizable and capable of being proved, a benefit must generally be tangible or objectively measurable.
 - Benefits may be measurable or intangible. Benefits that are not tangible or objectively measurable should be shown to be valuable or approved by the

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

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

common understanding of enlightened opinion for the time being.³ In most cases, the benefit should be a necessary and reasonably direct result of how the purpose will be achieved.⁴ An assumed prospect or possibility of gain that is vague, indescribable or uncertain, or incapable of proof, cannot be said to provide a charitable benefit.⁵

- The second part of the test requires the benefit be directed to the public or a sufficient section of the public. This means a registered charity cannot:
 - have an eligible beneficiary group that is negligible in size, or restricted based on criteria that are not justified based on the charitable purpose(s);
or
 - provide an unacceptable private benefit. Typically, a private benefit is a benefit provided to a person or organization that is not a charitable beneficiary, or to a charitable beneficiary that exceeds the bounds of charity. A private benefit will usually be acceptable if it is incidental, meaning it is necessary, reasonable, and not disproportionate to the resulting public benefit.⁶

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

As indicated above, to be registered as a charity under the Act, Canadian law requires that an organization's purposes be exclusively charitable, must fall within one or more of the four categories of charity and deliver a charitable public benefit. In addition, the

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

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

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

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

⁷ Canadian Magen David Adom for Israel v MNR, 2002 FCA 323 at para 69.

purposes must define the scope of the activities that can be engaged in by the organization.⁸

The question of whether an organization is constituted exclusively for charitable purposes cannot be determined solely by reference to its stated purposes, but must take into account the activities in which an organization currently engages. In *Vancouver Society of Immigrant and Visible Minority Women v MNR*, the Supreme Court of Canada stated as follows:

In *Guaranty Trust*, *supra* at p.144, this Court expressed the view that the question of whether an organization was constituted exclusively for charitable purposes cannot be determined solely by reference to the objects and purposes for which it was originally established. It is also necessary to consider the nature of the activities presently carried on by the organization as a potential indicator of whether it has since adopted other purposes. In other words, as Lord Denning put it in *Institution of Mechanical Engineers v Cane*, [1961] A.C. 696 (H.L.), at p. 723, the real question is, "for what purpose is the Society at present instituted? (emphasis in original).⁹

A charitable activity is one that directly furthers a charitable purpose. It requires a clear relationship and link between the activity and the purpose it purports to further. If an activity is, or becomes, a substantial focus of an organization, it may no longer be in furtherance of a stated purpose. Instead, the activity may further, or even form, a separate or collateral purpose. An organization with a collateral non-charitable purpose is ineligible for registration under the Act.

Audit findings:

a) Governing document

The Organization was registered as a charity under the Act on September 10, 1989, on the basis of a letter of affiliation, also dated September 10, 1989, which stated:

"This will certify that Ontario DeMolay is [affiliated] with Canadian DeMolay Foundation of Canada. This will certify that the members of Ontario DeMolay Foundation agree to the affiliation and will abide by the objectives of the Canadian DeMolay Foundation (CDF) and the Canadian Supreme Counsel of Canadian DeMolay of Canada."

However, at the time of registration the Organization did not provide CRA with a copy of the CDF's governing document, nor has a copy been provided to the CRA during the

⁸ *Vancouver Society of Immigrant and Visible Minority Women v MNR*, [1999] 1 SCR 10, 1999 CanLII 704 (SCC) at para 159; *Travel Just v Canada Revenue Agency*, 2006 FCA 343 at para 2.

⁹ *Vancouver Society of Immigrant and Visible Minority Women v MNR*, [1999] 1 SCR 10, 1999 CanLII 704 (SCC) at para 194, Iacobucci J. See also *AYSA Amateur Youth Soccer Association v Canada (Revenue Agency)*, 2007 SCC 42 at para 42.

course of this audit, as was requested in our letter dated April 22, 2021. Consequently, it appears that the Organization was not established with a governing document, and without such a document we are unable to verify that the Organization has been established and operated for charitable purposes. While it is possible to be registered as a charity as an internal division of an existing registered charity, this does not appear to be the case with the Organization, as its business number is separate and distinct from that of the CDF.

b) Activities

During the fiscal periods under audit the Organization reported the following amounts at line 4910, "Research grants and scholarships as part of its charitable activities", on its Form T3010, Registered Charity Information Returns (Form T3010): \$5,587 in 2018, and \$5,907 in 2019. The Organization's financial statements revealed that the following expenditures were included in the amounts it reported on line 4910:

Fiscal period ending December 31, 2018

Ontario DeMolay Inter. ISC & Congress	\$ 3,420.00
██████████ (Mississauga Chapter Keyman/30)	\$ 452.25
██████████ (Mississauga Chapter Keyman/31)	\$ 452.25
██████████ (Ottawa Chapter/32)	\$ 452.25
██████████ (Royal City Chapter 33)	\$ 452.25
Simcoe Grey York (Garden Reimbursement/35)	\$ 358.35

Fiscal period ending December 31, 2019

Ontario Jurisdiction DeMolay Canada/40	\$ 4,365.00
██████████ Keyman/42	\$ 525.10
██████████ Keyman/43	\$ 1,016.85

The expenses make up 78% and 98%, respectively, of the Organization's total expenses of \$7,048 in 2018, and \$6,005 in 2019, as reported on line 4700, "Total expenditures" of its Form T3010s. Based on the Organization's June 2, 2021, representations, we have determined these expenses were incurred solely for the purpose of reimbursing other DeMolay chapters in Ontario for expenses related to members of those chapters attending DeMolay-related conferences in Pennsylvania, the DeMolay International Session in Washington, various Centennial Celebrations, and to help Simcoe Grey York DeMolay with a garden. It is the CRA's position that the entities reimbursed by the Organization are not qualified donees, as they are not themselves registered charities or otherwise considered qualified donees under the Act.

The CRA considers organizations that focus on advancing the interests of their members rather than the community at large to be non-charitable "members' groups". Members' groups are usually formed exclusively to further their own interests, and therefore lack

the necessary element of altruism required to be charitable at law.¹⁰ Their direct benefits are tied primarily to membership and are available only to members, and as a result the transfer of resources to other DeMolay chapters to reimburse those chapters for expenses does not meet the public benefit test.

Summary:

It is our view that the Organization is not constituted and operated exclusively for charitable purposes. To qualify as a registered charity, the Organization must be established with a governing document and the beneficiaries of the activities it carries must be the public-at-large, or a sufficient segment thereof. Based on our review of the activities undertaken by the Organization it appears that the Organization may be operating as a non-charitable “members’ group”. Accordingly, the Organization has failed to meet the requirements of subsections 149.1(1) of the Act that it be constituted and operated exclusively for charitable purposes. For this reason, it appears there may be grounds for to revoke the Organization’s registration as a charity under paragraph 168(1)(b) of the Act.

2. Failed to devote resources to charitable activities carried on by the Organization itself – Gifted to non-qualified donees

Legislation and jurisprudence:

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

charitable organization, at any particular time, means an organization, whether or not incorporated,
(a) constituted and operated exclusively for charitable purposes,
(a.1) all the resources of which are devoted to charitable activities carried on by the organization itself [...]

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

- for its own charitable activities – undertaken by the charity itself under its continued supervision, direction and control;¹¹ and
- for gifting to qualified donees as defined in the Act

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

- a registered charity (including a registered national arts service organization);

¹⁰ CPS-016 – Distinction Between Self-Help Groups and Members’ Groups.

¹¹ Canadian Committee for the Tel Aviv Foundation v. Canada, 2002 FCA 72 (CanLII) at para 31.

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

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

Audit findings:

As stated above in Section 1, the Organization transferred amounts of \$5,587 in 2018, and \$5,907 in 2019, or 78% and 98%, respectively, of its total expenses, to different DeMolay chapters in Ontario, all of which do not appear to be qualified donees. As such, it is our position that Organization has gifted funds to a third-party entities that are not qualified donees.

Summary:

As the majority of the Organization expenses were disbursements by way of gift to non-qualified donees, the Organization has failed to demonstrate that it meets the test for continued registration under 149.1(1) of the Act. For this reason there may be grounds, under subsection 149.1(2)(c) of the Act, for the Minister to revoke the Organization's registration as a charity in the manner as described at paragraph 168(1)(b) of the Act.

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

Legislation and jurisprudence:

Subsection 149.1(14) of the Act states that:

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

It is the responsibility of a charity to ensure that the information provided in its Form T3010, Registered Charity Information Return, schedules and statements, is factual and complete in every respect. A charity is not meeting its requirements to file an information return in prescribed form if it fails to exercise due care with respect to ensuring the accuracy thereof. The Federal Court of Appeal has confirmed that a significant number of inaccuracies, or beyond what might reasonably be viewed as minor, in a T3010 are a sufficient basis for revocation.¹²

Audit Findings

The audit revealed that the Organization inaccurately completed its Form T3010 for the fiscal periods under review, as described in detail below:

- For both fiscal periods under review the Organization completed both Section D: Financial Information, and Schedule 6: Detailed Financial Information. Schedule 6, must be completed only if any one of the following applies:
 - a) The charity's total revenue from all sources exceeds \$100,000.
 - b) The amount of all property (e.g. investments, rental properties) not used in **charitable programs** exceeds \$25,000.
 - c) The charity currently has permission to accumulate funds in the fiscal period.

For purposes of condition b), is the term property includes cash in bank accounts, physical inventory of goods, stocks, bonds, mutual funds, GICs, land, and buildings.

As the Organization cash assets exceed \$25,000, it is required to complete Schedule 6 only.

- For fiscal period ended December 31, 2019, the Organization reported an amount at line 4950, "Total expenditures before gifts to qualified donees", however, failed to provide a breakdown of this amount onto lines 5000, "Total expenditures on charitable activities", 5010, "Total expenditures on management and administration", 5050, "Total expenditures on fundraising", and 5040, "Total other expenditures included in line 4950".

Summary:

It is our position that the Organization has failed to comply with subsection 149.1(14) of the Act by failing to file an accurate Form T3010. For this reason, there may be grounds to revoke the registered status of the Organization under subsection 149.1(2) and paragraphs 168(1)(b) and 168(1)(c) of the Act, in the manner described at subsection 168(1) of the Act.

¹² Opportunities for the Disabled Foundation v MNR, 2016 FCA 94 at paras 50-51.

The Organization's options:

a) Respond

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

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

b) Do not respond

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

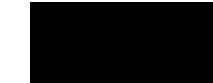
The Act provides the Minister the discretion to revoke a charity's registration. Section 168 of the Act describes the manner in which the Minister may revoke a charity's registration. In accordance with subsection 168(1) of the Act, when proposing to revoke, the charity is given notice by registered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

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

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

If you have any questions or require further information or clarification, please do not hesitate to contact me at the numbers indicated below. My manager, Julie McCaffrey, may also be reached at 613-850-7091.

Yours sincerely,

A solid black rectangular box used to redact a signature.

Shannon Morash
Charities Directorate
Canada Revenue Agency

Telephone: 343-551-5937
Toll Free: 1-800-267-2384
Facsimile: 613-941-0186

c.c.: Barry Burchill
Director

Ontario Demolay

Foundation

ODF

To: Shannon Morash
From: [REDACTED]
CC: George Ingraham
Date: [REDACTED]
Re: BN: 890947542RR0001 Case # 71030541

Comments: Please find attached, our reply to the above case with supporting documents. If you need more information, please let me know.

CRA

BN: 890947542RR0001

Case #: 71030541

I write this in response to your letter of February 9th, 2023. I will say that the Executive of this Foundation has changed since this matter arose. I came on board in 2022.

I will address each are of non-compliance individually.

Issue #1

- a. Governing Attached (If this is not sufficient, can CRA provide guidance on how to update it to meet new compliance regulations)
- b. Donations fund training and education for members and adult volunteers. Member training life skills which include Time & Resource Management, Public Speaking, Management Experience and understanding the obligations of a law abiding citizen to name a few. The emphasis Adult Volunteer Training shifted around the year 2000 to include the understanding the boundaries when dealing with youth, legal and moral. As a result, the training became more thorough and as a result, lengthy.

Issue #2

The Foundation was created to support the members which belong at the provincial and local chapter levels. The donation amounts of \$5,587.00 in 2018 and \$5,907.00 in 2019, do in fact support our mandate by covering the cost of members and adult volunteers to attend training sessions, the core of our mandate.

Issue #3

I am still investigating this issue. Some of those involved at the time in question have since passed away and I am still reviewing archived files.

I have included (attached) the original (T2050) Application for Registration and the 2014 By-laws.

I hope that this sheds more light on the Case. If you have any questions, please let me know.

Treasurer, Demolay Foundation of Ontario



February 9, 2023

Robert Tate
 Secretary/Treasurer
 Ontario DeMolay Foundation
 59 Holitman Dr
 Nepean ON K2J 2S5

BN: 890947542RR0001
 Case #: 71030541

Dear Robert Tate:

Subject: Audit of Ontario DeMolay Foundation

This letter results from the audit of the Ontario DeMolay Foundation (the Organization) conducted by the Canada Revenue Agency (CRA). The audit related to the Organization's operations for the fiscal periods ending December 31, 2018, and December 31, 2019.

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

AREAS OF NON-COMPLIANCE		
	Issue	Reference
1.	It is not constituted and operated exclusively for charitable purposes a) Governing document b) Activities	149.1(1) 168(1)(b)
2.	Failed to devote resources to charitable activities carried on by the Organization itself – Gifted to non-qualified donee	149.1(1) 149.1(2)(c) 168(1)(b)
3.	Failed to file an information return as and when required by the Act and/or its Regulations	149.1(14), 149.1(2), 168(1)(b), and 168(1)(c)

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

Identified areas of non-compliance**1. It is not constituted and operated exclusively for charitable purposes****Legislation and jurisprudence:**

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

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

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

The public benefit requirement involves a two-part test:

- The first part of the test requires the delivery of a benefit that is recognizable and capable of being proved, and socially useful. To be recognizable and capable of being proved, a benefit must generally be tangible or objectively measurable.
 - Benefits may be measurable or intangible. Benefits that are not tangible or objectively measurable should be shown to be valuable or approved by the

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

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

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common understanding of enlightened opinion for the time being.³ In most cases, the benefit should be a necessary and reasonably direct result of how the purpose will be achieved.⁴ An assumed prospect or possibility of gain that is vague, indescribable or uncertain, or incapable of proof, cannot be said to provide a charitable benefit.⁵

- The second part of the test requires the benefit be directed to the public or a sufficient section of the public. This means a registered charity cannot:
 - have an eligible beneficiary group that is negligible in size, or restricted based on criteria that are not justified based on the charitable purpose(s); or
 - provide an unacceptable private benefit. Typically, a private benefit is a benefit provided to a person or organization that is not a charitable beneficiary, or to a charitable beneficiary that exceeds the bounds of charity. A private benefit will usually be acceptable if it is incidental, meaning it is necessary, reasonable, and not disproportionate to the resulting public benefit.⁶

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

As indicated above, to be registered as a charity under the Act, Canadian law requires that an organization's purposes be exclusively charitable, must fall within one or more of the four categories of charity and deliver a charitable public benefit. In addition, the

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

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

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

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

⁷ Canadian Magen David Adom for Israel v MNR, 2002 FCA 323 at para 69.

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purposes must define the scope of the activities that can be engaged in by the organization.⁸

The question of whether an organization is constituted exclusively for charitable purposes cannot be determined solely by reference to its stated purposes, but must take into account the activities in which an organization currently engages. In *Vancouver Society of Immigrant and Visible Minority Women v MNR*, the Supreme Court of Canada stated as follows:

In *Guaranty Trust*, *supra* at p.144, this Court expressed the view that the question of whether an organization was constituted exclusively for charitable purposes cannot be determined solely by reference to the objects and purposes for which it was originally established. It is also necessary to consider the nature of the activities presently carried on by the organization as a potential indicator of whether it has since adopted other purposes. In other words, as Lord Denning put it in *Institution of Mechanical Engineers v Cane*, [1961] A.C. 696 (H.L.), at p. 723, the real question is, "for what purpose is the Society at present instituted? (emphasis in original).⁹

A charitable activity is one that directly furthers a charitable purpose. It requires a clear relationship and link between the activity and the purpose it purports to further. If an activity is, or becomes, a substantial focus of an organization, it may no longer be in furtherance of a stated purpose. Instead, the activity may further, or even form, a separate or collateral purpose. An organization with a collateral non-charitable purpose is ineligible for registration under the Act.

Audit findings:

a) Governing document

The Organization was registered as a charity under the Act on September 10, 1989, on the basis of a letter of affiliation, also dated September 10, 1989, which stated:

"This will certify that Ontario DeMolay is [affiliated] with Canadian DeMolay Foundation of Canada. This will certify that the members of Ontario DeMolay Foundation agree to the affiliation and will abide by the objectives of the Canadian DeMolay Foundation (CDF) and the Canadian Supreme Council of Canadian DeMolay of Canada."

However, at the time of registration the Organization did not provide CRA with a copy of the CDF's governing document, nor has a copy been provided to the CRA during the

⁸ *Vancouver Society of Immigrant and Visible Minority Women v MNR*, [1999] 1 SCR 10, 1999 CanLII 704 (SCC) at para 159; *Travel Just v Canada Revenue Agency*, 2006 FCA 343 at para 2.

⁹ *Vancouver Society of Immigrant and Visible Minority Women v MNR*, [1999] 1 SCR 10, 1999 CanLII 704 (SCC) at para 194, Jacobucci J. See also *AYSA Amateur Youth Soccer Association v Canada (Revenue Agency)*, 2007 SCC 42 at para 42.

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course of this audit, as was requested in our letter dated April 22, 2021. Consequently, it appears that the Organization was not established with a governing document, and without such a document we are unable to verify that the Organization has been established and operated for charitable purposes. While it is possible to be registered as a charity as an internal division of an existing registered charity, this does not appear to be the case with the Organization, as its business number is separate and distinct from that of the CDF.

b) Activities

During the fiscal periods under audit the Organization reported the following amounts at line 4910, "Research grants and scholarships as part of its charitable activities", on its Form T3010, Registered Charity Information Returns (Form T3010): \$5,587 in 2018, and \$5,907 in 2019. The Organization's financial statements revealed that the following expenditures were included in the amounts it reported on line 4910:

Fiscal period ending December 31, 2018

Ontario DeMolay Inter. ISC & Congress	\$ 3,420.00
Mississauga Chapter Keyman/30)	\$ 452.25
(Mississauga Chapter Keyman/31)	\$ 452.25
(Ottawa Chapter/32)	\$ 452.25
(Royal City Chapter 33)	\$ 452.25
Simcoe Grey York (Garden Reimbursement/35)	\$ 358.35

Fiscal period ending December 31, 2019

Ontario Jurisdiction DeMolay Canada/40	\$ 4,365.00
Keyman/42	\$ 525.10
Keyman/43	\$ 1,016.85

The expenses make up 78% and 98%, respectively, of the Organization's total expenses of \$7,048 in 2018, and \$6,005 in 2019, as reported on line 4700, "Total expenditures" of its Form T3010s. Based on the Organization's June 2, 2021, representations, we have determined these expenses were incurred solely for the purpose of reimbursing other DeMolay chapters in Ontario for expenses related to members of those chapters attending DeMolay-related conferences in Pennsylvania, the DeMolay International Session in Washington, various Centennial Celebrations, and to help Simcoe Grey York DeMolay with a garden. It is the CRA's position that the entities reimbursed by the Organization are not qualified donees, as they are not themselves registered charities or otherwise considered qualified donees under the Act.

The CRA considers organizations that focus on advancing the interests of their members rather than the community at large to be non-charitable "members' groups". Members' groups are usually formed exclusively to further their own interests, and therefore lack

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the necessary element of altruism required to be charitable at law.¹⁰ Their direct benefits are tied primarily to membership and are available only to members, and as a result the transfer of resources to other DeMolay chapters to reimburse those chapters for expenses does not meet the public benefit test.

Summary:

It is our view that the Organization is not constituted and operated exclusively for charitable purposes. To qualify as a registered charity, the Organization must be established with a governing document and the beneficiaries of the activities it carries must be the public-at-large, or a sufficient segment thereof. Based on our review of the activities undertaken by the Organization it appears that the Organization may be operating as a non-charitable "members' group". Accordingly, the Organization has failed to meet the requirements of subsections 149.1(1) of the Act that it be constituted and operated exclusively for charitable purposes. For this reason, it appears there may be grounds for to revoke the Organization's registration as a charity under paragraph 168(1)(b) of the Act.

2. Failed to devote resources to charitable activities carried on by the Organization itself – Gifted to non-qualified donees

Legislation and jurisprudence:

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

charitable organization, at any particular time, means an organization, whether or not incorporated,
(a) constituted and operated exclusively for charitable purposes,
(a.1) all the resources of which are devoted to charitable activities carried on by the organization itself [...]

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

- for its own charitable activities – undertaken by the charity itself under its continued supervision, direction and control;¹¹ and
- for gifting to qualified donees as defined in the Act

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

- a registered charity (including a registered national arts service organization);

¹⁰ CPS-016 – Distinction Between Self-Help Groups and Members' Groups.

¹¹ Canadian Committee for the Tel Aviv Foundation v. Canada, 2002 FCA 72 (CanLII) at para 31.

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

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

Audit findings:

As stated above in Section I, the Organization transferred amounts of \$5,587 in 2018, and \$5,907 in 2019, or 78% and 98%, respectively, of its total expenses, to different DeMolay chapters in Ontario, all of which do not appear to be qualified donees. As such, it is our position that Organization has gifted funds to a third-party entities that are not qualified donees.

Summary:

As the majority of the Organization expenses were disbursements by way of gift to non-qualified donees, the Organization has failed to demonstrate that it meets the test for continued registration under 149.1(1) of the Act. For this reason there may be grounds, under subsection 149.1(2)(c) of the Act, for the Minister to revoke the Organization's registration as a charity in the manner as described at paragraph 168(1)(b) of the Act.

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

Legislation and jurisprudence:

Subsection 149.1(14) of the Act states that:

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

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It is the responsibility of a charity to ensure that the information provided in its Form T3010, Registered Charity Information Return, schedules and statements, is factual and complete in every respect. A charity is not meeting its requirements to file an information return in prescribed form if it fails to exercise due care with respect to ensuring the accuracy thereof. The Federal Court of Appeal has confirmed that a significant number of inaccuracies, or beyond what might reasonably be viewed as minor, in a T3010 are a sufficient basis for revocation.¹²

Audit Findings

The audit revealed that the Organization inaccurately completed its Form T3010 for the fiscal periods under review, as described in detail below:

- For both fiscal periods under review the Organization completed both Section D: Financial Information, and Schedule 6: Detailed Financial Information. Schedule 6, must be completed only if any one of the following applies:
 - a) The charity's total revenue from all sources exceeds \$100,000.
 - b) The amount of all property (e.g. investments, rental properties) **not used in charitable programs** exceeds \$25,000.
 - c) The charity currently has permission to accumulate funds in the fiscal period.

For purposes of condition b), is the term property includes cash in bank accounts, physical inventory of goods, stocks, bonds, mutual funds, GICs, land, and buildings.

As the Organization cash assets exceed \$25,000, it is required to complete Schedule 6 only.

- For fiscal period ended December 31, 2019, the Organization reported an amount at line 4950, "Total expenditures before gifts to qualified donees", however, failed to provide a breakdown of this amount onto lines 5000, "Total expenditures on charitable activities", 5010, "Total expenditures on management and administration", 5050, "Total expenditures on fundraising", and 5040, "Total other expenditures included in line 4950".

Summary:

It is our position that the Organization has failed to comply with subsection 149.1(14) of the Act by failing to file an accurate Form T3010. For this reason, there may be grounds to revoke the registered status of the Organization under subsection 149.1(2) and paragraphs 168(1)(b) and 168(1)(c) of the Act, in the manner described at subsection 168(1) of the Act.

¹² Opportunities for the Disabled Foundation v MNR, 2016 FCA 94 at paras 50-51.

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The Organization's options:

a) Respond

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

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

b) Do not respond

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

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

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

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

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If you have any questions or require further information or clarification, please do not hesitate to contact me at the numbers indicated below. My manager, Julie McCaffrey, may also be reached at 613-850-7091.

Yours sincerely,



Shannon Morash
Charities Directorate
Canada Revenue Agency

Telephone: 343-551-5937
Toll Free: 1-800-267-2384
Facsimile: 613-941-0186

c.c.: Barry Burchill
Director



Revenue Canada Revenu Canada
Taxation Impôt

T2050
Rev. B6

(3)

**CANADIAN CHARITIES AND
CANADIAN AMATEUR ATHLETIC ASSOCIATIONS
APPLICATION FOR REGISTRATION**

For Departmental use only

REGISTRATION NUMBER

DATE

- APPLICANT — A Canadian corporation, trust, organization or association when applying for registration as a charity or as a Canadian amateur athletic association for purposes of the Income Tax Act.
- One completed application, with full particulars as listed below, is to be forwarded to the Charities Division, Revenue Canada, Taxation, Ottawa, Ontario, K1A 0L6.
- For assistance in completing this form contact the office mentioned above using the following telephone numbers: Toll free 1-800-267-2384; Ottawa 954-0410 or refer to the pamphlet "Registering Your Charity" available at the above address or from your local District Taxation Office.
- A separate application must be filed by each branch, section, parish, congregation or other division of a charity that receives donations or has income on its own behalf.

NAME OF APPLICANT		James Heffel (Ontario Demolay Foundation)		
MAILING ADDRESS (Street and No., P.O. Box, or R.R. No.)				
(City/Town)		(Province)	POSTAL CODE	
ADDRESS AT WHICH BOOKS AND RECORDS WILL BE KEPT				
(City/Town)		(Province)		
RELIGIOUS DENOMINATION (if applicable)		FISCAL PERIOD ENDS	DAY	MONTH
		31	31	12

PART I — PARTICULARS

PART I — The following is required of an applicant for registration as a charity as well as an applicant for registration as a Canadian amateur athletic association.

- Attach a certified* copy of each of the document(s) under which the applicant was established and which states its objects or purposes and governs its operations, such as: Letters Patent or Certificate of Incorporation, Application for Incorporation, Memorandum or Articles of Association, Constitution, Trust document, By-laws, etc.
**If applicant is not incorporated, certification requires the signatures of at least three officers of the organization and the effective date of the document.*
- Attach a statement which will reveal full details of the activities and/or programs to be carried on by the applicant in furtherance of each of the objects or purposes stated in its governing documents.
- Attach a copy of the Statement of Receipts and Disbursements and of the Assets and Liabilities for the last completed year or fiscal period of operation prior to date of application. If not in operation, a copy of the budget, or an estimate of the expenditures to be made in the first year of operation, should be attached.
- Attach a list showing the full name, address and occupation of all the executive or directing officers (e.g. directors, trustees, officers) of the applicant, including, in the case of a parish or congregation, the name of the priest, pastor or minister in charge. (This refers to those individuals who set the policy of the organization or association and/or direct its operations.)
- Does the applicant own or intend to acquire real property, i.e. — land and/or buildings?
 YES NO

If "YES", state the name in which the title thereto is or will be registered.

PART II — The following is required only of an applicant for registration as a charity.

- Indicate the designation of which this applicant is seeking registration:
 charitable organization public foundation private foundation unsure

(Please note that each of terms "charitable organization", "public foundation" and "private foundation" have specific technical meanings for the purposes of the Income Tax Act.)

- Was the applicant formed for the purpose of funding registered charities (or other qualified donees listed in paragraphs 110(1)(a) or (b) of the Income Tax Act) to the extent of more than 50% of its annual income?
 YES NO

- Are 50% or more of the persons referred to in Item 4 above related by blood, marriage or adoption?
(i.e. do not deal with each other at arm's length)
 YES NO

- To the best of your knowledge, will this applicant be funded primarily by one person or by a group of persons who are related by blood, marriage or adoption? (i.e. will more than 50% of the total contributions received come from one person or a group of persons not dealing at arm's length? Note: "persons" does not include Her Majesty in right of Canada or a province, a municipality, another registered charity that is not a private foundation, or a non-profit club, society or association).
 YES NO

CERTIFICATION		
1. James B. Waffel <small>Name of Officer whose signature appears below (Please print)</small>		<small>Address</small>
HEREBY CERTIFY that the information given in this application and in all documents attached is true, correct and complete in every respect. (Note: It is a serious offence to make false or deceptive statement(s).)		
<small>Signature of an Authorized Officer of the Applicant</small>		<small>Position or Office within the organizational structure of the Applicant</small>
<small>Home Telephone Number</small>	<small>Business Telephone Number</small>	<small>Date</small>
Name, address and telephone number of an authorized representative, if different from above.		
<small>Name</small>	<small>Address</small>	<small>Telephone Number</small>

Form authorized and prescribed by order of the Minister of National Revenue

(French au verso)

ONTARIO DEMOLAY FOUNDATION

particulars 1. of part 1

Attached are certified true copy of the appropriate STATUTES of the Order of DeMolay:

- a - Statutes cover as amended May 19, 1985,
- b - Provisions relating to Supreme Council - Order of DeMolay (Part 11 Page 3)
- c - Page 30 ARTICLE 41 relating to the Issuance of Charters.
- d - page 34 ARTICLE 45 MEMBERSHIP Boys ages 13- to 21 Years.

ONTARIO DEMOLAY FOUNDATION

PARTICULARS 2 PART 1

ACTIVITIES And programs

The purpose ,of the Foundation is to create, collect, receive and maintain a Charitable and Educational - Leadership fund and apply the income and principal thereof to carry out any and all purposes of the Order of DeMolay for Boys ages 13 21 years in Ontario.

More simply stated the Foundation chartered will be to insure the perpetuity of Ontario DeMolay and see that no young man is prevented from benefiting from DeMolay programs.

To that end, the Foundation's earnings are pledged to:

1 Advancement of Education - Leadership Training Programs

Engage in Leadership Training through attendance at provincial, National and International sponsored workshops and Training Camps.

2 DeMolay Membership Programs

Engage in an active Membership advertising Program through out the Province of Ontario.

3 Advisor Training- Educational, Leadership, and Financial.

Engage in Provincial and National sponsored Programs to the betterment of every young man in Ontario and to impart this up-to-date knowledge to the DeMolay Boys 13-21 Years.

4 Charitable Projects:

Engage in civic service projects such as canvassing for the United Way or Heart Fund, raising funds for Crippled Children, Seeing EYE Dogs programs . assisting senior CITIZENS and much more.

General - DeMolay is different from other Youth Groups. It is self supporting. It does not depend on general community or Provincial fund raising drives nor Government grants.

Few Organizations enjoy the dignity that DeMolay imparts to its members through the philosophy and principles embodied in the leadership, and citizenship training that teaches lessons of TRUTH, COURAGE, FIDELITY , AND TOLERANCE..

We also have a active Sport Programs and Social Events.

ONTARIO DEMOLAY FOUNDATION

PARTICULARS 3 PART I

ESTIMATE OF EXPENDITURES TO BE MADE IN THE FIRST YEAR OF OPERATION

Advancement of Education - Leadership training Programs.
6 Demolay chapters, Ottawa, Toronto, Belleville, Hamilton,
London & Windsor all active.

New Chapters: proposed, Kingston, Barrie, Chatham & Sarnia
Estimated Budget: \$500.00 each Chapter TOTAL \$ 4,500

Demolay Membership Promotion: TOTAL \$ 900

Advisor Training \$ 200.00 each Chapter TOTAL \$ 1,800

Charitable Projects: Crippled Children
and Seeing EYE DOG TOTAL \$ 600

GRAND TOTAL \$ 7,800

ONTARIO DEMOLAY FOUNDATION --

PARTICULARS 4

PART 1

The following is the slate of Officers and Directors.

President: James Heffel [REDACTED]

Occupation: [REDACTED]

Secretary: Donald Harrison [REDACTED]

Occupation: [REDACTED]

Treasurer: Brad Wager [REDACTED]

Occupation: [REDACTED]

DIRECTORS

Roy Doherty, [REDACTED]

Rev Lloyd Carver, [REDACTED]

James Napier, [REDACTED]

Howard Pepper, [REDACTED]

Copy: Original document scanned by [REDACTED]

BY-LAWS
ONTARIO DeMOLAY FOUNDATION

Adopted: October 3, 2014

PREAMBLE

The Ontario DeMolay Foundation was established under the authority of DeMolay Canada to support and promote the Order of DeMolay in Ontario. The Foundation was granted charitable status by the Canada Revenue Agency in 1989 (Charitable Number: B.N.: 890947542RR0001).

ARTICLE I

PURPOSE

The purpose of the Ontario DeMolay Foundation (Foundation) is to create, collect, receive and maintain a Charitable and Educational - Leadership fund and to apply the income and principal thereto to support any and all purposes of the Order of DeMolay in Ontario, bearing in mind the seven (7) precepts of the order: Filial Love, Reverence for Sacred Things, Courtesy, Comradeship, Fidelity, Cleanliness and Patriotism.

To this end, the Foundation's activities include, but are not limited to, the following:

1. Advancement of Education - Leadership Training Programs
Engage in Leadership Training through provincial, national and international conferences and workshops.
2. DeMolay Membership Programs
Engage in an active Membership Promotion Program through out the Province of Ontario.
3. Advisor Training- Educational, Leadership, and Financial.
Engage in Provincial and National sponsored Programs to the betterment of every young man in Ontario and to impart this up-to-date knowledge to the DeMolay members.
4. Charitable Projects:
Engage in civic service projects such as the United Way, Heart Fund, support programs for physically challenged children, support to senior citizens and other charitable activities.

Ontario DeMolay Foundation – By-laws

5. Sport and Social Programs

Engage in Leadership and Citizenship development through support of DeMolay sport and social activities.

ARTICLE II

MEMBERS

The members of the Foundation shall consist of such persons as may be appointed by the Board or elected to membership at any duly called meeting of the Foundation. Membership of any person may be terminated at any time for failure to attend three (3) consecutive General Meetings, by a majority vote of the Board or by majority vote of the membership at any General or Special Meeting thereof.

ARTICLE III

BOARD OF DIRECTORS

1. The affairs and business of the Foundation shall be managed and directed by a Board of Directors (the Board) consisting of the following:
 - a) President
 - b) Secretary/Treasurer
 - c) Vice-President
 - d) Executive Officer of DeMolay Ontario
 - e) Chair of the Advisory Council of each DeMolay Chapter in Ontario
 - f) Director(s)-at-Large
2. Provision shall be made at each General Meeting for the election of the President, Secretary/Treasurer, Vice-President and Directors-at-Large, as appropriate. Members of the Board shall normally be elected for a term of three years and may be elected for a further three-year term. A further term may be permitted after the lapse of a minimum of one year out of office as a Director.
3. Should a vacancy occur in the membership of the Board by reason of death, resignation, or removal from office, the remaining Directors shall elect, by majority vote, a qualified person to complete the unexpired term of such member.
4. A Director may withdraw or resign at any duly constituted meeting of the members of the Foundation or by notice in writing to the President or Secretary/Treasurer of the Foundation.

Ontario DeMolay Foundation – By-laws

ARTICLE IV**POWERS AND DUTIES - BOARD OF DIRECTORS**

1. The Board of Directors shall have the power and authority to do any lawful act deemed necessary, convenient, or incident to carrying out the purposes for which this Foundation is formed. Without limiting the generality of the foregoing, the Board shall direct, manage, control, and conduct the business and affairs of the Foundation, and shall have all the power to collect and receive all monies paid to the Foundation to be used for the purposes described in Article I of these by-laws; to employ necessary persons and to pay necessary and reasonable expenses required to carry out the work of the Foundation and to use all of the balance of such monies, for the purposes described in Article I.
2. The Board may appoint such Directors-at-Large and committees, as it deems necessary, convenient, or incident to carry out the objectives and purposes of the Foundation.
3. The Executive Committee shall consist of the President, Secretary/Treasurer, Vice-President and the Executive Officer of DeMolay Ontario. It shall have and may exercise the powers of the Board in the management of the business and affairs of the Foundation.
4. Any two (2) members of the Executive Committee shall on behalf of and in the name of the Ontario DeMolay Foundation be authorized to provide appropriate procedures to open and maintain bank accounts in a Financial Institution protected under the Canada Deposit Insurance in Ontario, co-sign cheques, disperse funds, arrange and provide for any related services that may be required.
5. The Executive Committee shall, at all meetings of the Board or Foundation, provide a summary of all actions taken by the Committee since the last meeting for ratification and indemnification by the meeting.

ARTICLE V**MEETINGS**

1. Meetings of the members of the Board and the Foundation shall be held at a time and place designated by the President, of which all members shall receive due notice. In the absence of the President, the Secretary/Treasurer shall call the meeting. Meetings may be held in person, or by means of communication by which all members participating may simultaneously hear each other during the meeting. Every effort will be made to maximize the use of electronic transmissions to facilitate communications and decision-making among all members of the Foundation.

Ontario DeMolay Foundation – By-laws

2. A General Meeting of the Foundation shall be held at least once every 18 months. Each member shall be notified orally, in writing, or by electronic transmittal at least fifteen (15) days prior to the date of such meeting. Provision shall be made at such meetings, for the members of the Foundation to elect or reelect such Directors to the Board as appropriate.
3. A Special Meeting of the Foundation shall be called upon the written request of five (5) members of the Foundation sent to the President stating the purpose for which the request is made. The President shall call the meeting within thirty (30) days of receipt of the last of the five (5) written requests. Members of the Foundation shall be given at least ten (10) days notice of the Special Meeting, which notice shall include the purpose for which the Special Meeting is being held.
4. At any meeting of the Board, three (3) Directors shall constitute a quorum.
5. At any meeting of the Foundation, the members present shall constitute a quorum.
6. Decisions at all meetings of the Foundation shall be based on consensus or a simple majority vote.

ARTICLE VI

OFFICERS

1. The President shall act as Chair of the Board of Directors and shall:
 - a) preside at all meetings of the Foundation. In the event that the President is unable to attend a meeting, the members present shall elect a temporary Chair for the meeting.
 - b) have general supervision of the affairs of the Foundation and such other powers and duties as may properly belong to his office or as shall be prescribed by the Board.
2. The Secretary/Treasurer shall:
 - a) give notice of all meetings, attend meetings of the Foundation, and keep and maintain a complete and detailed record of their proceedings. In the absence of the Secretary/Treasurer, the Chair shall appoint a temporary Secretary/Treasurer.
 - b) be responsible for the safekeeping of all records belonging to the Foundation, including the books of account and financial records.
 - c) be the custodian of, and shall receive, safely keep, and account for, all monies of the Foundation and shall make payments and disbursements as directed by the Board.
 - d) deposit the funds of the Foundation in such banks or trust companies as may from time to time be designated by the Board.

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- e) make recommendations to the Board with respect to changes or improvements in the method in keeping of records or additional records which should be maintained. As soon as practicable after the end of each fiscal year, and more often if requested by the Board, he shall prepare from such books and records, a statement of the financial condition of the Foundation, its assets, liabilities and net worth and such supplementary reports as may be necessary to disclose the Foundation's financial condition.
- f) have such other duties and powers as the Board may prescribe.

ARTICLE VII**FINANCIAL REVIEW**

The Board shall arrange for at least two (2) persons at arms-length from the Foundation to examine the books, papers, accounts, and funds of the Foundation and to submit to the Board a report to be presented at the General Meeting of the Foundation.

ARTICLE VIII**AMENDMENT OF BY-LAWS**

Any member may propose an amendment to these by-laws in writing to the President. It shall be sent to all members of the Foundation at least thirty (30) days prior to any duly assembled General Meeting of the Foundation. These by-laws may be amended by an affirmative vote of two-thirds of the members of the Foundation present at the duly assembled General Meeting, provided that no amendment shall be adopted which shall change the nature of the Foundation, nor which shall have the effect of diverting to other purposes any monies already received by the Foundation for the purposes set out in Article 1 of these by-laws.

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

$$\mathbf{A - B}$$

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

$$\mathbf{A - B}$$

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.