



REGISTERED MAIL

Taber Society for Christian Education Ltd.

JAN 14 2016

Attention:

BN: 85688 6650 RR0001

File:3042071

Subject: Notice of Penalty
Taber Society for Christian Education Ltd.

Dear [REDACTED]

I am writing further to our letter dated June 11, 2014 (copy enclosed), in which you were invited to submit representations as to why we should not assess a penalty to Taber Society for Christian Education Ltd. (the Organization) in accordance with section 188.1 of the *Income Tax Act*.

We have now reviewed and considered your representative's written response of November 14, 2014. However, notwithstanding your representative's reply, our concerns with respect to the Organization's issuance of official donation receipts for tuition fees have not been alleviated. We are of the opinion that the official donation receipts issued by the Organization are for payments that do not qualify as gifts, and are outside the Canada Revenue Agency's (CRA) exception for payments made to religious schools. The issuance of incorrect receipts is therefore subject to a penalty under subsection 188.1(7) of the Act.

Your representative's submissions included in the letter dated November 14, 2014 are discussed below.

Official Donation Receipts

In your representative's correspondence, dated November 14, 2014 you presented the argument that the parents of the children attending TCS were paying tuition fees to one entity, the Organization, which subsequently paid the fees to the school. You also concluded that the school (TCS) is a registered charity and the facts are similar to those detailed in the case, *Woolner v. R.*, and as a result, the school is subject to the Act whereby CRA is allowed to examine the books and records. The purpose of the examination is to ensure that the issuance of the receipts meets the

criteria and scope of IC75-23 and verify the use of funds. You maintained that CRA's position on this matter appears to ignore the tax case *Woolner v R* where the decision upheld by the Federal Court of Appeal, made it clear that it is not to whom the payment is being made, but the purpose of the payment, that is determinative. You further maintained that whether the parents paid the tuition fees to a private religious school or to a society which then pays a public school, the payments were for the same purpose, a religious education.

Our position

We understand the parents' payment made to the Organization was intended for religious education. However, the amounts paid by the parents of children who received the alternative education at TCS also included other non-instructional fees.

Tuition fees paid to an educational institution are not considered charitable donations and official donation receipts may not be issued for such fees even if they are paid to a registered charity. The purpose of IC75-23 is to explain two exceptions to that rule, specifically where amounts paid to schools may be considered as a donation. The two types of schools that give rise to these special circumstances are: those that teach exclusively religion and those that operate in a dual capacity, providing both secular and religious education. Furthermore, the schools in question must be privately supported.

The audit revealed that the Organization is not operating as a religious school or as a school operating in a dual capacity. In fact, the audit evidence determined that the Organization is not a school. Rather, it is a society whose purpose is to support the alternative Christian Program offered by the public school system. As such, the exceptions allowing certain fees paid to a school to be deductible as charitable donations addressed in IC75-23 do not apply to the Organization.

Specifically, the Organization exists to support the alternative program administratively and issued donation receipts for the additional fees charged by the public school board, to cover non-instructional costs.

According to the agreement between The Board of Trustees of Horizon School Division No.67 (BTHSD) and Taber Society for Christian Education (TSCE):

- Paragraph 6.1 states that "The Board shall collect such fees as may be collected of students in accordance with the School Act and /or Board Policy permitting the collection of fees with respect to instructional supplies or materials".
- Paragraph 6.2 states that "The Society may determine, collect and administer fees to parents and/or guardians for the purpose of covering extra costs associated with the spiritual emphasis program and

technology, other than as agreed to in 5.2, facilities, capital and transportation that exceed funding provided to the Board for TCS Alternative Program by the province”.

Our summary policy CSP-G05 states that “A registered charity cannot issue an official donation receipt if a donor has directed the charity to give the funds to a specified person or family. In reality, such a gift is made to the person or family and not to the charity. However, donations subject to a general direction from a donor that the gift be used in a particular program operated by a charity are acceptable, provided that no benefit accrues to the donor and decisions regarding the utilization of the donation rest with the charity”. In this case, the payments resulted in a benefit received by the parents since they were earmarked to cover the additional fees charged by the BTHSD in respect of their children.

Furthermore, in *Coleman et al v The Queen* 2010 TCC 109, it was suggested that an enquiry into the connection between the donation and the benefit be made in order to determine the true character of the payment as a gift. To that end, the following factors were considered:

- I. “Is there a relationship between the donor and ultimate beneficiary?
- II. Is there any correlation between the amount of the donation and the amount received by the beneficiary?
- III. What are the circumstances surrounding the donation:
 - a) What did the donor know or expect would happen to the donation?
 - b) What did the beneficiary know or expect would happen to the donation?
 - c) What did the charity know or expect would happen to the donation?
 - d) What was the donor’s intention?
 - e) How was the amount of the donation determined?
 - f) How was the money donated?
 - g) Was the donor under any moral or legal obligation to the beneficiary?
- IV. Did the donor have any control over the charity’s use of the money?”

It can be concluded after looking at the above factors and applying them to the case at hand, that a strong link existed between the donation and the benefit. The payments were not a transfer of property without consideration. Rather, they were in respect of an obligation to pay pursuant to an agreement, which stipulates that the Organization shall collect fees from parents of children enrolled in the alternative program in order to defray additional costs not covered by the public school board. Furthermore, in *The Queen v. Friedberg* (92 DTC 6031), it stipulates that no benefit can flow to the donor and this condition is not met.

Please note that our Information Letter entitled *Treatment of Tuition Fees as Charitable Donations* should be read in conjunction with IC75-23. It explicitly states that the CRA is under no obligation, as specified in the Circular, to treat as a charitable

donation any portion of parents' payments made to foundations or other organizations established to provide operating funds to parochial schools.

It is the Agency's practice not to view religious instruction as consideration under specific circumstances as explained in IC75-23. In particular, the religious instruction must be given at parochial schools operated by registered charities, with the result that a portion of payments made by parents for their children's instruction at such schools may be treated as a charitable donation.

The term "school" is not defined in the Act, and therefore has the meaning established at common law, as reflected in the ninth edition of the Black's Law Dictionary as "an institution of learning and education especially for children". When used in statute the "school" usually does not include universities, business colleges or other institution of higher education unless the intent to include institution is clearly defined.

As stated above, the purpose of IC75-23 is to explain two exceptions to the rule prohibiting tuition fees from being deductible as charitable donations under the Act. Those exceptions apply to religious instruction given at parochial schools only. The Organization fails to meet the exceptions. It was concluded during the audit that the Organization is not a school, parochial or secular. Instead, the Organization is currently overseeing the administrative functions of the agreement entered into with BTHSD for the sole purpose of supporting the Christian Education Program primarily through the implementation of the Alternative Program at TCS. Specifically, the regular cost of education per student is covered by BTHSD; all teachers at TCS are employed by BTHSD though the Organization may have a direct role in the hiring of teachers, aids and other staff. Furthermore, the Organization continues to own the school buildings and BTHSD has use of them according to the terms of the agreement.

In the case *Woolner v R*, referenced by your representative, Judge Sexton J.A. concluded in his judicial review of the decision of Hamlyn: "The taxpayers here argue also that since their children could have been provided a free education in publicly-funded high schools, there was no material benefit. We disagree. These taxpayers desired to have their children schooled in a particular way. Their contributions guaranteed that result. This constituted a material benefit to the taxpayer." In addition, this case deals with the First Mennonite Church (the Church), a registered charity, which established a student mutual aid program and the taxpayers designated their contributions to that program. The Church issued receipts for those contributions. Students who are members or children of members of the Church subsequently received Church-sponsored bursaries to attend Rockway Mennonite Collegiate, another registered charity. The court held that the contributions made to the Church could not be considered gifts to the extent they reflected payments of tuition for secular education. The balance of the contributions could be treated as charitable donations. We wish to point out that in the *Woolner*

case, the school attended by the recipient of the bursaries, Rockway Mennonite Collegiate, must be distinguished from BTHSD in that it is a parochial school that is registered as a charity and subject to provisions of the Act governing charitable organizations.

It is the position of the CRA that the payments made to the Organization had the sole purpose to defray additional costs not covered by the public school board. Accordingly, the fees do not meet the criteria outlined for eligibility as tuition fees allowed to be included on an official donation receipt.

Conclusion

Consequently, for each of the reasons mentioned in our letter dated June 11, 2014, I wish to advise you that, pursuant to subsection 188.1(7) of the Act, I propose to assess a penalty to the Organization.

Penalty Assessment

The penalty assessed by the Canada Revenue Agency (CRA) is calculated as follows:

	Fiscal Period Ending August 31, 2011	Fiscal Period Ending August 31, 2010	Total Penalties for the audit period
Receipts issued otherwise than accordance with the Act	\$ 159,365.00	\$ 146,541.00	
Penalty applied under subsection 188.1(7) of the Act	5%	5%	
Total Penalties owing as per subsection 188.1(7) of the Act	\$ 7,968.25	\$ 7,327.05	\$ 15,295.30

In accordance with subsection 189(6.3) of the Act, the penalty may be paid to an eligible donee as defined in subsection 188(1.3). An eligible donee in respect of a particular charity is a **registered charity**:

1. 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;
2. that is not subject to a suspension of tax-receipting privileges;
3. that has no unpaid liabilities under the *Income Tax Act* or the *Excise Tax Act*;
4. that has filed all its information returns; and
5. that is not subject to a security certificate under the *Charities Registration (Security Information) Act*.

The CRA requires the following documentation to confirm that the eligible donee received the penalty payment:

- a letter addressed to the Director, Compliance Division (mail to address below), signed by an authorized representative of the eligible donee, confirming the penalty payment was received and the amount paid; and
- a copy of either the cancelled cheque or evidence of a non-cash transfer.

Should you choose instead to make your payment to the CRA, please make the cheque payable to the Receiver General for Canada and mail it to:

Director
Compliance Division
Charities Directorate
Canada Revenue Agency
320 Queen Street, 2nd Floor
Ottawa ON K1A 0L5

Please note that in accordance with subsection 149.1(1.1) of the Act the penalty payment made to an eligible donee shall not be deemed to be an amount expended on charitable activities nor a gift made to a qualified donee.

Failure to pay this penalty amount or make arrangements for payment will result in us reconsidering our decision not to proceed with the issuance of a Notice of Intention to Revoke the registration of the Organization in the manner described in subsection 168(1) of the Act.

If you have any questions or require further information or clarification regarding the penalty payment, please contact Mr. Alexandre Comtois [REDACTED]

Appeal Process

Should you wish to appeal this Notice of Penalty in accordance with subsection 165(1) of the Act, a written Notice of Objection, which includes the reasons for objection and all relevant facts, must be filed **within 90 days** from the mailing of this letter. The Notice of Objection should be sent to:

Tax and Charities Appeals Directorate
Appeals Branch
Canada Revenue Agency
250 Albert Street
Ottawa ON K1A 0L5.

Public Notice

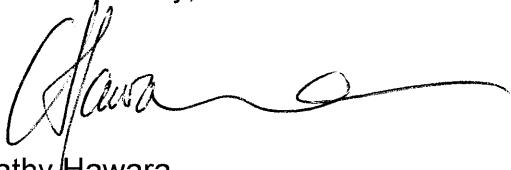
By virtue of paragraph 241(3.2) (g) of the Act, the following information relating to the Organization's penalty assessment will be posted on the Charities Directorate website:

Penalty Assessment

Name of Organization:	Taber Society for Christian Education Ltd.
Registration Number:	85688 6650RR0001
Effective date of Penalty:	January 12, 2016
Reason for Penalty:	Incorrect information on official donation receipts
Act Reference:	188.1(7)
Amount of Penalty:	\$ 15,295

We trust the foregoing fully explains our position.

Yours sincerely,

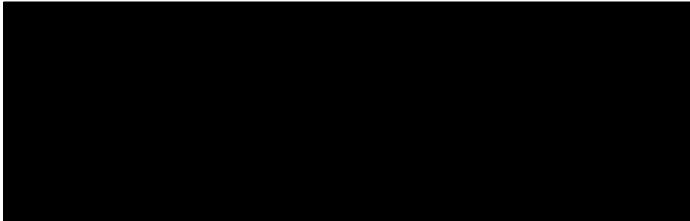


Cathy Hawara
Director General
Charities Directorate

Attachments:

- CRA letter dated June 11, 2014
- Response from Organization's lawyer – Mary Anne Loney of November 14, 2014

Cc:





CANADA REVENUE AGENCY AGENCE DU REVENU DU CANADA

REGISTERED MAIL

Taber Society for Christian Education Ltd
[REDACTED]

BN: 85688 6650 RR0001

Attention: [REDACTED]

File #:3042071

June 11, 2014

Subject: Audit of Taber Society for Christian Education Ltd.

Dear [REDACTED]

This letter is further to the audit of the books and records of the Taber Society for Christian Education Ltd (the Organization) conducted by the Canada Revenue Agency (the CRA). The audit related to the operations of the Organization for the period of September 1, 2009 to August 31, 2011.

As per our correspondence dated July 12, 2013 sent to you with a compliance agreement, you were advised that the CRA has identified specific areas of non-compliance with the provisions of the *Income Tax Act* and/or its *Regulations* in the following areas:

AREAS OF NON-COMPLIANCE:		
	Issues	References
1.	Official Donation Receipts -Incorrect Information <ul style="list-style-type: none">• Requirements of Regulations 3500 and 3501;• Tuition Fees• Directed Donations	Regulation 3500 and 3501; Paragraph 168(1)(d) & subsection 188.1(7); IC75-R3
2.	Failure to issue T4As	Subsection 153(1) Regulation 200(1)

As per the representation letter received from your representative [REDACTED] dated August 9, 2013, you had difficulty agreeing with our concerns with regards to:

- the issuance of official tax donation receipts to the parents of the students attending Taber Christian School (TCS) for tuition fees paid; and,
- official donation receipts given where funds are directed to a specific person or family.

The purpose of this letter is to describe the areas of non-compliance identified by the CRA during the course of the audit as they relate to the legislative and common law requirements applicable to registered charities, which may be subject to sanctions under the Act, and to provide the Organization with the opportunity to make additional representations or present additional information as to why a sanction should not be applied. Registered charities must comply with the law, failing which penalties and/or suspensions may be applicable pursuant to sections 188.1 and/or 188.2 of the Act, which include suspension of the Organization's authority to issue official receipts and suspension of its status as a "qualified donee". While the purpose of a sanction is to provide an alternative to revocation, notice may still be given of our intention to revoke the registration of the Organization by issuing a Notice of Intention to Revoke in the manner described in subsection 168(1) of the Act.

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

Identified Areas of Non-Compliance Subject to Penalty:

Technical Grounds for penalty

1. Official Donation Receipts

The practice embodied in Information Circular 75-23 applies to two types of schools: those which teach exclusively religious education and those which operate in a dual capacity offering both secular and religious education. The term "school" for purposes of the Circular does not include a nursery or pre-school program for children who could not be admitted to a regular kindergarten program in the public school system where the parochial school is located, nor does the practice extend to post-secondary educational institutions. The practice is applicable only to payments which are made directly to the school(s) attended by the payor's child or children. The Agency is under no obligation under the Circular to treat as a charitable donation any portion of parents' payments made to foundations or other organizations established to provide operating funds to parochial schools. Furthermore, no part of a parent's payment may be receipted under this practice if the child attends only the periods of secular instruction offered by the school.

The Agency has never accepted the teaching of mathematics, science, history, music, home economics, drama, art or other subjects ordinarily included in the curricula of the public school systems to be religious training, notwithstanding any spiritual or moral aspects such instruction may have. However, where music or religious history are taught as separate subjects and such subjects are in addition to history and music subjects that are ordinarily included in the curricula of the public school systems, the teaching of such religious history and religious music will be considered to be religious training for the purposes of the Circular, as will the teaching of Hebrew by a Jewish school.

The Organization was operating as a private school offering religious education until June 11, 2009, at which time the Organization entered into an agreement with the Horizon School Division No.67 to operate TCS as an alternative program (religious) within the local public school board.

Based on the representation letter dated August 9, 2013, your representative maintained that the Organization entered into an agreement with Horizon School Division No.67 and exists for the sole purpose of supporting the alternative Christian Education Program. She also maintained that the local public school board pays for the normal secular costs of education. As a result, the Organization is no longer a school operating in a dual capacity of a private school, giving religious and secular instruction. Horizon School Division No.67 runs the alternative Christian Education Program referred to as "TCS Alternative Program" as stated in the master agreement. As a result, all students at TCS are students of Horizon School Division No.67. The Organization does not have any students. It is indicated in the agreement that the Organization is involved in the operation of the school including providing input into the selection process of teachers, aides and other staff. However, all teachers at TCS are employed by Horizon School Division No.67. The employees of the Organization are employed in support of the "TCS Alternative Program". The Organization will continue to maintain ownership of the school building, lands, all capital equipment and personal property and Horizon School Division No.67 will have the use of the said properties for an agreed upon amount in a Lease Agreement. Under the new arrangement, the Organization is now in an administrative supporting role for the operation of the alternative program within the public school system rather than a private school operating in a dual capacity providing religious and secular instruction.

It is our understanding that the Organization is required to collect fees to cover the extra cost charged by Horizon School Division No.67 for running the "TCS Alternative Program" associated with spiritual emphasis program and technology. The Organization issues receipts to parents in order to offset the cost of operating the alternative program. The Agreement between Horizon School Division No.67 and TCS dated June 11, 2009 and its attachments state the following:

- Item 1.1.1 states: "In accordance with section 21 of the School Act and the Alternative Programs Policy of the Board (Policy HGBHA) and subject to the terms of this Agreement, the Board shall establish a Kindergarten to Grade 9 program of studies in the School with the support of the Society, and such program shall be called the Taber Christian School Education Alternative Program (TSC Alternative Program) with the understanding that the Board, in consultation with the Society, may take measures to extend the program of studies up to and including the grade twelve level."
- Item 1.1.3 states: "The TCS Alternative Program will be under the governance of the Board..."
- Item 6.6.1 states: "The Board shall collect such fees as may be collected of students in accordance with the School Act and/or Board Policy permitting the collection of fees with respect to instructional supplies or materials."

- Item 6.6.2 states: "The Society may determine, collect and administer fees to parents and/or guardians for the purpose of covering extra costs associated with the spiritual emphasis program and technology, other than as agreed to in 5.2 facilities, capital and transportation that exceed funding provided to the Board for the TCS Alberta program by the province".
- Subsection 21(4) of the School Act states: "If a parent enrolls a student in an alternative program, the board may charge that parent fees for the purpose of defraying all or a portion of any non-instructional costs that:
 - (a) may be incurred by the board in offering the alternative program, and
 - (b) are in addition to the costs incurred by the board in providing its regular education program."

Funds directed to the benefit of a person or family:

In the representation of August 9, 2013, your representative stated that "the Court in Woolner v R. after reviewing the case law, concluded that "payments made for religious training were not tuition education payments but were payments made [for religious training]," and as such, were charitable donations".

Under the arrangement between the Organization and Horizon School Division No.67, the parents are not considered to be making a voluntary transfer of funds to the Organization to be utilized at the Organization's own discretion. Please refer to our discussion below for the meaning of the term "gift". Rather they are using the Organization as means of paying the tuition fees charged by the school board in respect of their children and obtaining charitable donation receipts in return for the payments. Therefore, the amounts shown on the receipts are considered directed donations and don't qualify as gifts since they are made by the parents to the Organization in order to cover the additional tuition charged by school board for their respective children.

Under the Act, a registered charity can issue receipts to those who make gifts to support the charitable work it carries on. However, the question of whether a payment made to a registered charity is a gift is not dependent upon the nature of the activities of the organization but, rather, upon the nature of the payment.

The term "gift" is not defined in the Act. Therefore, the meaning has been established at common law - which is a voluntary transfer of property without consideration or expectation of return or compensation. A payment for tuition, even to a school which is a registered charity, is not a gift because it is not made without such consideration, and therefore would not normally be deductible as a charitable donation. However, it has been the CRA's practice not to view religious instruction given at parochial schools as consideration, with the result that a portion of payments made by parents for their children's instruction at such schools may be treated as a gift to a charity.

The judicial statement in the Federal Court of Appeal decision in *R. v. McBurney* states "if a transfer of property is in return for valuable consideration received by the transferor from the transferee, it will not be a gift by the transferor. If the relevant property, is not for a reason, precluded from being properly regarded as a gift, the above-considerations indicate usual attributes of a gift, namely, that a gift will ordinarily be by way of benefaction, that a gift will usually be not made in pursuance of a contractual obligation and that a gift will ordinarily be without any advantage of a material character being received in return".

As mentioned above, TCS is no longer regarded as a dual capacity school providing both religious and secular instruction but it has assumed the administrative role in supporting the alternative program and issuing donation receipts for additional fees to cover non-instructional costs incurred by the school board. As a result, the fees paid by the parents to the Organization for their children to attend TCS are considered directed donations.

IT 110 R3 Paragraph 15(f) prohibits the issuance of an official donation receipt for income tax purposes if the donor has directed the charity to give funds to a specified person or family.

Summary policy, CSP-G05 states that a registered charity cannot issue an official donation receipt if a donor has directed the charity to give the funds to a specified person or family. In reality, such a gift is made to the person or family and not to the charity. However, donations subject to a general direction from a donor that the gift be used in a particular program operated by a charity are acceptable, provided that no benefit accrues to the donor, the directed gift does not benefit any person not dealing at arms' length with the donor, and decisions regarding utilization of the donation within a program rest with the charity. In *Coleman et al v The Queen* 2010 TCC 109, Justice Miller stated "The benefit to the donor need not arise as a result of meeting a legal obligation. Anticipation of the benefit may be sufficient to deny a gift".

In the case *Woolner v R*, referenced by your representative in her letter dated August 19, 2013, the First Mennonite Church a registered charity had established a student mutual aid program and the taxpayers designated their contributions to that program. The church issued receipts for those contributions. Students who are members or children of members of the Church subsequently received church-sponsored bursaries to attend Rockway Mennonite Collegiate another registered charity. The court held that the contributions made to the First Mennonite Church could not be considered gifts to the extent they reflected payments of tuition for secular education. The balance of the contributions could be treated as charitable donations. It should be noted that in the *Woolner* case, the school attended by the recipient of the bursaries should be distinguished from Horizon School Division No.67 in that it is a parochial school that is registered as a charity and subject to provisions of the Act governing charitable organizations. The Charities Directorate is in a position to audit the books and records of that school to verify the use of the funds, the methods of allocation, and to ensure that the issuance of the receipts fits within the scope of the policy concerning the treatment of tuition fees as charitable donations.

Penalty Proposed:

188.1 (7) Incorrect information — Except where subsection (8) or (9) applies, every registered charity and registered Canadian amateur athletic association that issues, in a taxation year, a receipt for a gift otherwise than in accordance with this Act and the regulations is liable for the taxation year to a penalty equal to 5% of the amount reported on the receipt as representing the amount in respect of which a taxpayer may claim a deduction under subsection 110.1(1) or a credit under subsection 118.1(3).

188.1 (8) Increased penalty for subsequent assessment — Except where subsection (9) applies, if the Minister has, less than five years before a particular time, assessed a penalty under subsection (7) or this subsection for a taxation year of a registered charity or registered Canadian amateur athletic association and, after that assessment and in a subsequent taxation year, the charity or association issues, at the particular time, a receipt for a gift otherwise than in accordance with this Act and the regulations, the charity or association is liable for the subsequent taxation year to a penalty equal to 10% of the amount reported on the receipt as representing the amount in respect of which a taxpayer may claim a deduction under subsection 110.1(1) or a credit under subsection 118.1(3).

Penalty Calculation:

Due to the serious nature of the non-compliance issues described above, it is our view that a penalty under 188.1(7) of the Act should be applied to the Organization. Please note that the CRA is proposing the assessment of a penalty in accordance with sections 188.1 and/or 188.2 of the Act in lieu of issuing a Notice of Intention to Revoke.

According to our calculations, the penalty payment would be approximately \$15,295. Please refer to the attached Penalty Worksheet for further details on the penalty calculation.

Other Non-Compliance Issues not Subject to Penalty:

1. An official donation receipt is a receipt containing prescribed information as set out in Part XXXV of the *Income Tax Regulations*. Regulations 3500 and 3501 in the Act, as well as our Interpretation Bulletin IT-110R3 entitled "Gifts and Official Donation Receipts", deal with all aspects of official donation receipts, including:
 - the form and content of receipts;
 - the signing of receipts;
 - the use of facsimile signature;
 - replacement receipts; and
 - spoiled receipts.

The audit revealed that the donation receipts issued by the Organization did not comply with the requirements of Regulation 3501 of the Act or Interpretation Bulletin IT-110R3 in the manner described below:

- a. The receipts do not contain unique serial numbers. We suggest using a combination of alphanumeric characters to identify the Organization, e.g. TSFCE YEAR-XXX;
- b. Donation receipts were issued for membership fees paid by the parents;
- c. The Organization did not keep on file an exact copy of every official donation receipt issued. These copies must show the signature of an authorized person; and,
- d. Temporary receipts or extra copies given to donors included the registration number of the Organization and did not contain a notation to the effect that "this copy is for your information only and is not an official receipt for income tax purposes".

2. Failure to issue T4As

During our review of the expenses incurred by the Organization, we noted that payments were made to individuals for bus driving and gym supervision but T4A remuneration slips were not issued for payments over \$ 500.00.

It is recommended that T4As be completed when such payments accumulate to over \$500.00 for a calendar year.

The Organization's Options:

a) No Response

You may choose not to respond. In that case, the Director General of the Charities Directorate may proceed with the application of penalties and/or suspensions described in sections 188.1 and/or 188.2 of the Act or give notice of its intention to revoke the registration of the Organization by issuing a Notice of Intention in the manner described in subsection 168(1) of the Act.

b) Response

Should you choose to make representations regarding this proposal, please provide your written representations and any additional information regarding the findings outlined above **within 30 days** from the date of this letter. After considering the representations submitted by the Organization, the Director General of the Charities Directorate will decide on the appropriate course of action, which may include:

- no compliance action necessary;
- the issuance of an educational letter;
- resolving these issues through the implementation of a Compliance Agreement;
- the application of penalties and/or suspensions provided for in sections 188.1 and/or 188.2 of the Act; or
- giving notice of its intention to revoke the registration of the Organization by issuing a Notice of Intention in the manner described in subsection 168(1) of the Act.

If you have any questions or require further information or clarification, please do not hesitate to contact the undersigned at the numbers indicated below.

Yours sincerely,



11/5/04

Clara Chin
Audit Division
Edmonton Tax Services Office

Telephone : (780)495-6711
Toll Free : 1-800-267-2384 (Charities)
Facsimile : (780) 495-6908
Address : Suite 10, 9700 Jasper Ave.
Canada Place,
Edmonton, Alberta T5J 4C8

Enclosure: Penalty Calculation

Cc.

November 14, 2014

**SENT BY FAX
WITHOUT PREJUDICE**

Canada Revenue Agency
Suite 10, 9700 Jasper Avenue
Edmonton, AB TSJ 4C8

Attention: George LeBlanc, CGA and Clara Chin, BBA

Dear Sir and Madam:

Re: [REDACTED] **Taber Society for Christian
Education Ltd.**

The purpose of this letter is to follow-up regarding [REDACTED] the Taber Society for Christian Education Ltd. ("Taber") (together, the "Societies") Audits.

As you have undoubtedly perceived, our firm is representing [REDACTED] Taber. With their permission, I am writing regarding both Societies, as we have concluded it will be more efficient, given the same issue is in dispute.

Donation Receipts

While there were other issues raised in the Audits, the issue where the Societies and you appear to disagree which is of concern to the Societies is on the question of providing official donation receipts for some or all of the tuition paid by parents to the Societies to cover the religious portion of their children's education.

In letters sent on behalf of both Societies, I have laid out the Societies' position. To summarize, the Societies believe that Information Circular 75-23 ("IC75-23") permits them to provide donation receipts to parents for tuition paid for the religious portion of their children's education. The legal rational for this policy is that, as per IC75-23 "religious training is not viewed as consideration for the purposes of the definition of a gift," meaning the parents would not receive any consideration for the payment and it would be considered as a gift and open to a donation receipt.

The most recent correspondence we have received from you on this matter was your letter of June 11, 2014 to Taber. In that letter, you claim that the practice of allowing donation receipts for tuition for religious education "is applicable only to payments which are made directly to the school(s) attended by the payor's child or children."

With respect, this appears to ignore *Woolner v R*, the 1997 decision of Tax Court of Canada, upheld by the Federal Court of Appeal, which made it clear that it is not to whom the payment is being made, but the purpose of the payment that is determinative. Whether parents are paying the tuition to a private religious school directly or paying a society which then pays a public school to provide religious education, the purpose is the same: religious education.

Your June 11, 2014 letter attempts to distinguish Taber's situation from that in *Woolner v R*, where parents were also paying one entity which then paid a school, by claiming that the school in that case was a registered charity and subject to the provisions of the *Income Tax Act* governing charities, and that "the Charities Directorate is in a position to audit the books and records of that school to verify the use of the funds, the methods of allocation, and to ensure that the issuance of the receipts fits within the scope of the policy concerning the treatment of tuition fees as charitable donation."

With respect, there is no reason why this distinction will prevent the Charities Directorate from verifying the use of funds. The Societies are only paying the school boards to defray specific costs, which can be itemized, and such information is available from the Societies themselves, which are registered charities which may be audited. The Societies would be happy to provide full financial disclosure to how all their funds are used.

The Societies recognize that not all their expenses may qualify as religious education and are prepared to work with the Canada Revenue Agency ("CRA") to clarify what expenses would reasonably be attributed to religious education. However, they have become frustrated due to the apparent lack of movement on this specific issue.

CRA Delay

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[REDACTED]

While the period has been shorter, Taber also appears to be stalled in the Audit phase [REDACTED] the CRA has neither issued the threatened reassessment, giving the Societies the opportunity to file an Objection if they so choose, nor has the CRA retracted the original Audit letter.

This is especially frustrating as it places the Societies in effectively legal limbo. The Societies are registered charities and do not have substantial financial resources. Being able to issue tax receipts for part of parents' tuition has an impact on their income generating capabilities. For budgeting and financial reasons, it is important that the Societies know what it can and cannot receipt for.

It is the Societies' position that the stance taken in the audit letters with regard to receipting for payment for religious education is contrary to CRA policy and to Canadian tax case law. If the CRA is not in a position to refute the Society's position, we request that you retract the original audit letter. The Societies would also be happy discuss as to what expenses are or are not reasonably religious education, if that is an area of concern to the CRA. In any event, the Societies wish for these Audits to be concluded so they may decide how to proceed.

I look forward to hearing from you.

[REDACTED]

David Bekkering, Taber Society for Christian Education

[REDACTED]

[REDACTED]