

JUL 04 2006

BY REGISTERED MAIL

Canadian Friends of Collel Square
2727 Victoria Park Ave, #1011
Scarborough, Ontario M1T 1A6

Attention: Mr. Morris Zolty

BN: 11883 1767 RR0001
File #: 0500702

**SUBJECT: Notice of Intention to Revoke
Canadian Friends of Collel Square**

Dear Mr. Zolty:

I am writing further to our letter dated September 7, 2005 (copy attached), in which you were invited to submit representations to us as to why the Minister of National Revenue should not revoke the registration of Canadian Friends of Collel Square (hereinafter, the "Charity") in accordance with subsection 168(1) of the *Income Tax Act* (hereinafter, the "Act").

We reviewed your written responses of October 11, 2005 (copy attached); you will find our comments in the Appendix "A" attached.

Conclusion

Further to our letter dated September 7, 2005, we conclude that the Charity does not meet the requirements of a charitable organization under subsection 149.1(1) of the Act. Therefore, I wish to advise you that, for each of the reasons outlined in our letter and in Appendix "A" attached, and pursuant to the authority granted to the Minister in subsection 168 (1) of the Act, and delegated to me, I propose to revoke the registration of Canadian Friends of Collel Square. 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)(d) and 168(1)(e) of the Income Tax Act, that I propose to revoke the registration of the organization listed below and that the revocation of registration is effective on the date of publication of this notice.

File Number	Business Number	Name
0500702	11883 1767 RR 0001	Canadian Friends of Collel Square Scarborough, Ontario

Should you wish to appeal this Notice of Intention to Revoke the charity's registration in accordance with subsection 168(4) of the Act, you are advised to file a Notice of Objection within 90 days from the mailing of this letter. This notice is a written statement that sets out the reasons for the objection and all the relevant facts. The Notice of Objection should be sent to:

Tax and Charities Appeals Directorate
Appeals Branch
Canada Revenue Agency
25 Nicholas Street
Ottawa, ON K1A 0L5

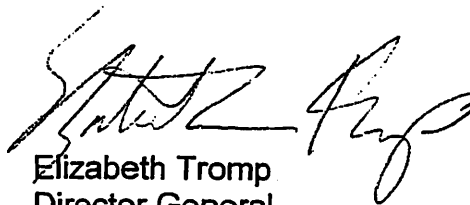
Consequences of a Revocation

As of the date of revocation of the registration of Canadian Friends of Collel Square, which is the date upon which the above-noted notice is published in the *Canada Gazette*, the Canadian Friends of Collel Square will no longer be exempt from Part I Tax as a registered charity and **will no longer be permitted to issue official donation receipts.**

Additionally, by virtue of section 188 of the Act, Canadian Friends of Collel Square, will be required to pay a tax within one year from the date of the Notice of Intention to Revoke the Charity's registration. This revocation tax is calculated on prescribed form T-2046, "*Tax Return Where Registration of a Charity is Revoked*". The return must be filed and the tax must be paid on or before the day that is one year from the date of the Notice of Intention to Revoke a Charity's Registration. For your reference, I have attached a copy of the relevant provisions of the Act (Appendix "B") concerning revocation of registration and the tax applicable to revoked charities as well as appeals against revocation. Form T-2046, along with the related Guide RC-4424, "*Completing the Tax Return Where Registration of a Charity is Revoked*", are also attached for your information.

Furthermore, I wish to advise you that pursuant to subsection 150(1) of the Act, a return of income for each taxation year in the case of a corporation (other than a corporation that was a registered charity throughout the year) shall without notice or demand therefore, be filed with the Minister in prescribed form containing prescribed information.

Yours sincerely,



Elizabeth Tromp
Director General
Charities Directorate

**Canadian Friends of Collel Square
BN: 11883 1767 RR 0001
File #: 0500702**

**CHARITY TAX AUDIT FOR THE FISCAL PERIOD FROM
AUGUST 1, 2002 TO SEPTEMBER 30, 2003**

COMMENTS ON REPRESENTATIONS OF OCTOBER 11, 2005

Funds Sent Overseas (Scholarships)

The audit conducted by the Canada Revenue Agency (hereinafter, the "Agency") had identified that the Canadian Friends of Collel Square (hereinafter, the "Charity") had not maintained adequate documentation to support the provision of scholarships to underprivileged students outside Canada. The Charity did not provide any documentary evidence indicating that it had established or maintained the criteria necessary to determine who will receive the scholarships. The Charity confers with the agent verbally on the selection of scholarship recipients. However, this does not constitute sufficient evidence that scholarships were provided to underprivileged students or that students actually attended the schools for which they received the scholarship. The Charity receives a monthly statement from the Rabbi [REDACTED] listing the students' names and total amount of funding disbursed within the month; actual amounts disbursed per student are not provided.

An audit conducted for the fiscal period ending September 30, 2000, revealed that the Charity did not have criteria for awarding scholarships to students of Collel Square in New York. The Charity undertook in its correspondence dated October 30, 2001 (copy attached), to determine the criteria for students who qualify for the scholarships and to have a receipt issued by each student acknowledging receipt of the scholarship. Our audit of fiscal period ending September 30, 2003, indicated that the Charity continued to receive reports from the agent advising the Charity of the students and the total amount of funding disbursed within the month as was observed in the prior audit. The Charity failed to determine the scholarship qualifying criteria as stated in its letter dated October 30, 2001 and also failed to have each student sign a receipt acknowledging receipt of the scholarship.

The representations of October 11, 2005 state that the Charity undertakes to confer with the Agent via written communication, on who qualifies for the scholarship monies and to have the student sign for the monies received. Canadian Friends of Collel Square has not yet implemented the undertakings outlined in its correspondence dated October 30, 2001. The Charity also failed to specify, within its October 11, 2005 correspondence, the criteria necessary to ascertain that scholarship recipients are underprivileged, that they actually attended school, and that they actually received the scholarship funds.

The audit conducted for the fiscal period ending September 30, 2000, revealed that the Charity did not maintain adequate documentation to support the expenditure of its funds overseas. The Charity acknowledged no Agency Agreement existed at that time and the Charity undertook, in its correspondence of October 30, 2001, to prepare an Agency Agreement between Rabbi [REDACTED] and the Canadian Friends of Collel Square. This Agreement was put in place in October 2001.

Our recent review of the Agency Agreement revealed that its provisions were never implemented. Although the Agreement enacted contained a provision for the agent to keep records of all funds received from the Charity segregated from the records of the agent as well as a provision that the Charity will maintain full and complete direction, control and supervision of the application of the funds, the Charity did not enforce these provisions.

The fact that the scholarship students write exams and tests does not provide assurance that the agent is accountable for the use of the funds nor that the funds are controlled by the Charity. The application forms, exams and tests written by the students are maintained at the agent's office in New York and therefore, did not form part of the books and records maintained in Canada or segregated from the agent's records.

On conclusion, representations submitted by the Charity on October 11, 2005, failed to demonstrate that criteria were in place and being followed for the awarding of scholarships nor that control and direction was being maintained over funds transferred to the agent.



Canada Customs
and Revenue Agency

Agence des douanes
et du revenu du Canada

BY REGISTERED MAIL

September 7, 2005

Canadian Friends of Collel Square
2727 Victoria Park Ave. # 1011
Scarborough Ontario M1T 1A6

Your file / Votre référence

Our file / Notre référence
0500702

Attention: Morris Zolty

Dear Sir:

Re: BN# - 118831767 RR0001; For the Year 2003 .

This letter is further to an audit of the books and records of account of Canadian Friends of Collel Square (the "Organization"). The audit related to the operations of the Organization for its fiscal period ended September 30, 2003.

The audit has raised concerns about the Organization's compliance with certain provisions of the *Income Tax Act* (the "*Act*"). For a registered charity to retain its registration, it must comply with the provisions of the *Act*. If a particular registered charity does not comply with these provisions, the Minister may revoke that charity's registration in the manner described in subsection 168(2) of the *Act*. The balance of this letter describes the Canada Customs and Revenue Agency's (CCRA's) concerns.

Funds Sent Overseas

A Canadian charity carrying out its activities through an agent should ensure that its funds on a whole are kept separately from those of the agent and that the agent keeps separate books and records relating to the expenditures on behalf of the charity. These records should include details on exactly how the agent is carrying out instructions issued by the charity.

Besides its "own activities" test, a registered charity also has to ensure that its resources are devoted to charitable purposes. Therefore, where resources the charity is sending outside Canada are of a general nature, money, for example, which could be used for

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many things and could be used in a wide variety of non-charitable ways, the charity must be particularly careful to retain sufficient control to satisfy the requirements of the law.

In this case the Organization chose to administer scholarships to students attending a foreign school of higher learning through an agent, the following criteria are necessary to maintain full control and accountability.

- The selection criteria for scholarship should be set down by the Canadian charity and it should be the Canadian charity that reviews the applications and decides who will receive the scholarships.
- There should be assurance that the student actually attended the school for which they received the scholarship by a statement of attendance provided by the school.
- A receipt should be provided by the student, for which the scholarship was intended, that they received the funds.
- Receipts should be provided for all expenses and confirmation of receipt of funds for intended purposes.

It is the CCRA's view that this type of reporting mechanism is necessary for the Organization to clearly demonstrate that it maintains an adequate level of control and accountability over the use of its funds. These reports would have to be kept with the Organization's other books and records at the address recorded with CCRA. The Organization failed to demonstrate that it met these requirements.

In order to meet the definition of a charitable organization under subsection 149.1(1) of the *Act*, a registered charity must devote all its resources to charitable activities it carries on itself, or through an agent of the organization or through the organization's participation in a joint venture or partnership-like enterprise. Where a registered charity chooses to administer one or more of its activities through an appointed agent or representative, it must be able to substantiate, by documentary evidence, that it has arranged for the conduct of certain specific activities on its behalf and not simply made an outright transfer of funds to a non-qualified donee. The charity must also be able to demonstrate to the CCRA's satisfaction that it at all times, maintains control and full accountability over the use of its monies transferred to the agent.

The Charities Directorate has suggested certain guidelines for agency agreements in order to help charities understand all of the requirements of the *Act* in our brochure RC4106, "Registered Charities: Operating Outside Canada".

This publication is available on our website at: www.ccra-adrc.gc.ca/tax/charities.

If a charity chooses to administer its work in this fashion, the following conditions must be met.

- The charity should establish some sort of current, formal, written declaration that would state in each case that the organization/individual to be funded in this manner would be carrying out certain stated activities that the charity wishes to see accomplished on its behalf during the term of the agreement.
- Each organization or individual so funded should provide some system of continuous and comprehensive documented reporting, **including expense vouchers**, to the charity (on at least a quarterly or semi-annual basis) concerning its ongoing activities that are carried out on behalf of the charity. Such written reports should be supplemented at least yearly by a financial report reflecting the use of funds transferred to the agent.
- The charity's funds should remain apart from those of its representative so that the charity's role in any particular project or endeavour is separately identifiable as its own charitable activity.

Financial statements submitted in support of its annual information returns should provide a detailed breakdown of expenditures made in respect of its own charitable activities including those performed by its agents, and the names of all qualified donees to which funds have been gifted in the year covered by the return.

In our review of your books and records we found that although there was an agency agreement in place, there was no proof of the requirements of the agreement being applied. The charity seems to be operating as a conduit for transferring funds to a non-qualified donee.

Pursuant to paragraph 168(1)(b) of the Act, the Minister may, by registered mail, give notice to a registered charity that the Minister proposes to revoke its registration because it ceases to comply with the requirements of the Act related to its registration as such.

Control Over Official Donation Receipts

The audit indicates that the donation receipts issued by the Organization did not comply with the requirements of Regulation 3501 of the Act and IT-110R3 as follows:

The control over the issuance of official donation receipts was weak. In particular, the

deficiency noted was donation receipts were issued out of sequence. Due care was certainly not exercised in the carrying out of this function.

Another deficiency was in the name used on the donation receipts. The name the charity has been using on its official donation receipts is different from the one recorded on the Supplementary Letters Patent as filed with the Canada Revenue Agency. Unless the charity provides us with a certificate of amendment bearing the seal, stamp, or signature of the federal or provincial authority approving the name change; the charity must issue official donation receipts according to the charity's name and address as they appear in CCRA's records.

Pursuant to paragraph 168(1)(d) of the *Act*, the Minister may, by registered mail, give notice to the Organization that the Minister proposes to revoke its registration if it issues a receipt otherwise than in accordance with the *Act* and the Regulations.

For each of the reasons indicated above in its own right, it appears to us that there are grounds for revocation of the charity's status as a registered charity.

The consequences to a registered charity of losing its registration include

1. the loss of its tax exempt status as a registered charity which means that the charity would become a taxable entity under Part I of the *Income Tax Act* unless, in the opinion of the Director of the applicable Tax Services Office, it qualifies as a non-profit organisation as described in paragraph 149(1)(l) of the *Act*;
2. loss of the right to issue official donation receipts for income tax purposes which means that gifts made to the charity would not be allowable as a tax credit to individual donors as provided at subsection 118.1(3) of the *Act* or as a deduction allowable to corporate donors under paragraph 110.1(1)(a) of the *Act*; and
3. the possibility of a tax payable under Part V, subsection 188(1) of the *Act*.

For your reference, we have attached a copy of the relevant provisions of the *Income Tax Act* concerning revocation of registration and the tax applicable to revoked charities as well as appeals against revocation.

If you do not agree with the facts outlined above, or if you wish to present any reasons why the Minister of National Revenue should not revoke the registration of Canadian Friends of Collel Square in accordance with subsection 168(2) of the *Act*, you are invited to submit your representations within 30 days from the date of this letter.

Subsequent to this date, the Director General of the Charities Directorate will decide whether or not to proceed with the issuance of a Notice of intention to revoke registration of the Organization in the manner described in section 168 of the *Act*.

If you appoint a third party to represent you in this matter, please send us a written authorization naming that individual and explicitly authorizing that individual to discuss the Organization's file with us.

If you require further information, clarification, or assistance, please contact the undersigned at Canada Custom and Revenue Agency at the address or telephone number noted below.

Yours truly,



H. Keen

Verification and Enforcement Division

Telephone: (416) 410-1752

Fax: (416) 954-6015

Address: 1 Front Street West, Suite 100
Toronto ON M5J 2X6

Enclosure :