



MAY 18 2007

**BY REGISTERED MAIL**

Evidence Ministries  
1123 Albion Road, Unit 1  
Toronto, Ontario M9V 1A9

BN: 86622 6111 RR 0001

Attention: Mr. Osaretin Omoghan, Senior Pastor / President

**SUBJECT: Notice of Intention to Revoke  
Evidence Ministries**

Dear Mr. Omoghan:

I am writing further to our letter dated August 8, 2006 (copy enclosed), in which you were invited to submit representations to us as to why the Minister of National Revenue should not revoke the registration of Evidence Ministries (the "Charity") in accordance with subsection 168(1) of the *Income Tax Act* (the "ITA"). As of this date, we have not received any response to our letter.

Consequently, I wish to advise you that, pursuant to the authority granted to the Minister in subsection 149.1(2) of the ITA, and delegated to me, I propose to revoke the registration of the Charity. By virtue of subsection 168(2) of the ITA, the revocation will be effective on the date of publication in the *Canada Gazette* of the following notice:

*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 under subsection 149.1(2) of the Income Tax Act, and that the revocation of registration is effective on the date of publication of this notice.*

<b>Business Number</b>	<b>Name</b>
86622 6111 RR 0001	Evidence Ministries Toronto, Ontario

In accordance with subsection 168(2) of the ITA, you can suspend this process (i.e. seek an extended period before revocation) by applying to the Federal Court of Appeal or a judge of that court for a stay. The Court will acknowledge your application and provide you with an action number. We require a copy of the Court acknowledgement of your request for a stay to stop the revocation process.

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Should you wish to appeal this Notice of Intention to Revoke the Charity's registration in accordance with subsection 168(4) of the ITA, 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

Please note that, notwithstanding the filing of a Notice of Objection, the Charity must seek the above-noted stay to prevent revocation from occurring. Unless the Canada Revenue Agency receives notice that an application for a stay has been filed to the Federal Court of Appeal or judge of that court regarding this revocation, we intend to proceed with the publication of the above notice in the *Canada Gazette* in **30 days** thereby affecting the revocation of the Charity's registration.

#### **Consequences of a Revocation**


As of the date of revocation of the Charity's registration, which is the date upon which the above-noted notice is published in the *Canada Gazette*, the Charity 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, the Charity may be subject to tax pursuant to Part V, section 188 of the ITA. By virtue of section 188 of the ITA, the Charity 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 ITA (Appendix "A") 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, the Charity will no longer qualify as a charity for purposes of subsection 123(1) of the *Excise Tax Act* (the "ETA"), effective on the date of revocation. As a result, it may be subject to obligations and entitlements under the ETA that apply to organizations other than charities. If you have any questions about your GST/HST obligations and entitlements, please call GST/HST Rulings at 1-800-959-8287. A copy of the relevant provisions of the ETA that apply to charities (Appendix "B") is also attached for your information.

I also wish to advise you that pursuant to subsection 150(1) of the ITA, 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

**Attachments**

- Our letter dated August 8, 2006
- Appendix "A", Relevant Provisions of the *Income Tax Act*;
- Appendix "B", Relevant Provisions of the *Excise Tax Act*;
- Form T-2046, *Tax Return Where Registration of a Charity is Revoked*;
- Guide RC-4424, *Completing the Tax Return Where Registration of a Charity is Revoked*.



August 8, 2006

**BY REGISTERED MAIL**

Evidence Ministries  
1123 Albion Road  
Toronto, ON M9V 1A9

BN # 866226111RR0001  
File # 3021310

**Attention: Osaterin E. Omoghan**

Dear Mr. Omoghan:

Re: Audit of Evidence Ministries  
For the Years Ended December 31, 2003 and December 31, 2004

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This letter is further to the audit of the books and records of Evidence Ministries (hereinafter, the "Charity") by the Canada Revenue Agency (hereinafter, the "CRA"). The audit related to the operations of the registered charity for the period from January 1, 2003 to December 31, 2004

The results of this audit indicate that the Charity is in contravention of certain provisions of the Income Tax Act (hereinafter, the "Act") or its Regulations. In order for a registered charity to retain its registration, it is required to comply with the provisions of the Act applicable to registered charities. If these provisions are not complied with, the Minister may revoke the Charity's registration in the manner prescribed in section 168 of the Act.

The balance of this letter describes how the CRA considers that the Charity contravenes the Act.

**1. Books and Records**

It appears that the Charity does not maintain proper books and records in compliance with sections 230 and 231.5 of the Act. Disbursements were usually in cash and documentation in support of the expenditures was either insufficient or non-existent. We were unable to reconcile the donation receipts to the bank statements.

The books and records had indicated that \$46,880 and \$635,100 were spent on programs in Nigeria in 2003 and 2004, respectively. In the initial interview on April 18, 2006, you stated that no agency agreements were in place governing the use of these funds.

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During a telephone conversation on July 11, 2006 you informed us that the funds were hand-delivered to Nigeria at various times during the year and that the banking system was not used to transfer the funds-out of the country, due to restrictions on the amount of funds that could be transferred. Based upon this admission and the expenditures on foreign programs reported on the information return, the amounts in question that the organization wanted to transfer at any given time can reasonably be assumed to be significant especially in 2004. As per the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, amounts greater than \$10,000 should be reported to the Canada Border Services Agency. No evidence was provided to indicate that this had been done.

Under subsection 149.1(2) of the *Act*, the Minister may revoke the registration of the registered charity in the manner as described at paragraph 168(1)(e) of the *Act* because the registered charity has failed to comply with or contravenes any of sections 230 to 231.5 of the *Act*.

## 2. Information Return

Subsection 149.1(14) of the *Act* requires every registered charity to file a Registered Charity Information Return, (form T3010), without notice or demand, within six months from the end of each taxation year. This return must be in prescribed form and contain prescribed information. A charity is not properly meeting its information return filing requirements when it fails to exercise due care with respect to ensuring the accuracy thereof.

The audit results had indicated that the Charity is improperly completing the Information Return in that many of the items reported were incorrectly identified or omitted. Specifically:

- i. In 2003, no amount was reported on line 5400 of the T3010 "Total expenditures on programs outside Canada excluding gifts to qualified donees". However, per the books and records, amounts totalling \$46,880, was spent on programs in Nigeria and \$3,000 spent on a ministry visit to the U.S.A.

In 2004, an amount of \$64,500 was reported on line 5400. However per the books and records, amounts totalling \$635,100 were spent on programs in Nigeria and \$40,000 was spent on programs in Guyana, South America.

- ii. Per the books and records for 2003, the Charity receipted amounts totalling \$247,890. However, only \$15,531.44 was deposited into the bank account. On line 4500 of the T3010 the Charity reported an amount of \$162,288.

In 2004, the Charity receipted amounts totalling \$1,480,125. However, only \$50,751.60 was deposited into the bank account. On the T3010, no amount was reported on line 4500.

It is the responsibility of the Charity to ensure that the information that is provided in its return, schedules and statements, is factual and complete in every respect.

Under subsection 149.1(2) of the *Act*, the Minister may revoke the registration of the registered charity in the manner as described at paragraph 168(1)(e) of the *Act* because the registered charity has failed to comply with or contravenes any of sections 230 to 231.5 of the *Act*.

### **3. Official Donation Receipts**

Regulation 3501 of the *Act* provides various requirements of official donation receipts issued by registered charities. The following are the requirements:

*Every official receipt issued by a registered organization shall contain a statement that it is an official receipt for income tax purposes and shall show clearly in such a manner that it cannot readily be altered,*

*(a) the name and address in Canada of the organization as recorded with the Minister;*

*(b) the registration number assigned by the Minister to the organization;*

*(c) the serial number of the receipt;*

*(d) the place or locality where the receipt was issued;*

*(e) where the donation is a cash donation, the day on which or the year during which the donation was received;*

*(e.1) where the donation is a gift of property other than cash*

*(i) the day on which the donation was received,*

*(ii) a brief description of the property, and*

*(iii) the name and address of the appraiser of the property if an appraisal is done;*

*(f) the day on which the receipt was issued where that day differs from the day referred to in paragraph (e) or (e.1);*

*(g) the name and address of the donor including, in the case of an individual, his first name and initial;*

*(h) the amount that is*

*(i) the amount of a cash donation, or*

*(ii) where the donation is a gift of property other than cash, the amount that is the fair market value of the property at the time that the gift was made; and*

*(i) the signature, as provided in subsection (2) or (3), of a responsible individual who has been authorized by the organization to acknowledge donations.*

It was revealed during the audit that some of the above noted requirements were contravened as follows:

- i. The addresses of the donors were omitted from all the receipts.
- ii. Complete names were not used in some cases.
- iii. There were no dates on some receipts
- iv. The donation receipt(s) did not state the location or municipality where the receipt(s) was/were issued

Under subsection 149.1(2) of the *Act*, the Minister may revoke the registration of the registered charity in the manner as described at paragraph 168(1)(d) of the *Act* because the registered charity has issued a receipt for a gift or donation otherwise than in accordance with the *Act* and the regulations or that contains false information.

#### 4. Funds Sent Overseas – Missionary Activities

It appears that the Charity does not maintain adequate documentation to support the expenditure of its funds on its overseas missionary activities. During the audit, it was discovered that: -

- i. Large amounts of funds were sent overseas – particularly to Nigeria for which adequate documentation was not maintained.
- ii. There was no agency agreement put in place governing the use of the funds
- iii. It was apparent that the Charity did not exercise any control over the funds sent abroad.

Where a charity transfers funds to an individual (such as a missionary or field agent) it will meet the Income Tax Act's requirements if the relationship between the charity and the individual is that of an employer/employee. Where this relationship does not exist, the charity must be able to substantiate, by documentary evidence, that it has arranged for the conduct of activities on its behalf and not simply made a gift to the individual.

The requirement in the Act is not met where a charitable organization transfers funds to individuals without a formally established arrangement (contract) under which those individuals are legally obliged to carry out certain specified activities on the charity's behalf. In other words, if the charitable organization does not actually direct the actions of the individuals to whom it is transferring funds, and has little, if any, control over or accountability for the application of those funds, then it is not possible to view the activities performed by the individuals to be the charity's activities.

The Agency recognizes that a charity may wish to fund the programs and activities of an individual who is involved in work which the charity wishes to see accomplished because it is in line with the charity's own charitable objectives. However, it is not possible given the requirements of the Income Tax Act, for a charity to transfer funds it receives and receipts merely on the basis that the individual receiving its monies will devote those resources to efforts that are bona fide and in line with the charity's own objectives.

These same restrictions apply when the recipient of the charity's funds is another organization (for example, a foreign charity, a foreign government, or an international aid agency) unless such a recipient organization is a "qualified donee".

Under subsection 149.1(2) of the *Act*, the Minister may revoke the registration of the registered charity in the manner as described at paragraph 168(1)(e) of the *Act* because the registered charity has failed to comply with or contravenes any of sections 230 to 231.5 of the *Act*.

## **5. Non-Charitable Use of Funds**

The audit revealed that funds belonging to the Charity were used for purposes other than for its charitable programs. This included the following:

### **2003:**

- i. A cash amount of \$5,270 in January 2003 spent on "Miscellaneous Expenses".
- ii. A cash amount of \$3,400 spent in February 2003 for "Family Night".
- iii. Cash Amounts \$5,500, spent in May 2003, for "Men's Week". The purpose for this activity was stated in the records as "to invite friends to worship"
- iv. A cash amount of \$3,000 disbursed in June 2003 for picnic supplies
- v. On August 9, 2003, an amount of \$4,000 cash was spent on a visit to Niagara Falls. During our meeting on June 5, 2006, you stated that this amount was spent to take the entire church on a sight-seeing trip, as many of the members had never visited Niagara Falls.
- vi. In September 2003, you received an amount of \$10,000 "from the Charity to assist you with your wedding". An additional \$100.00 was paid to Winsor Bridal from the Charity's funds.
- vii. In December of 2003, cash disbursements were made in the amounts of \$2,000, \$4,000 and \$8000 for Women's Week, Christmas Carolling and Appreciation Night respectively.

### **2004:**

- i. On January 18, March 20 and July 18, 2004 amounts of \$3,000, \$3000 and \$3,000 respectively were spent on Women's Week
- ii. On January 24, April 17 and June 26, amounts of \$2,500, \$2,000 and \$3,000 respectively were spent on Men's Week
- iii. On April 10 and June 19, 2004 cash disbursements \$1,500 and \$1,500 respectively were spent on "Youth Night"
- iv. On April 29, 2004, a cash disbursement was made in the amount of \$500, which you stated represented a hospital payment for your wife (for delivery).
- v. On May 23, 2004 a cash disbursement was made in the amount of \$4,000 for an ordination dinner.
- vi. On June 12, 2004 a cash disbursement of \$3,000 was made for a picnic at Eglinton Park



You were asked on several occasions to explain the activities that took place during Women's Week, Men's Week, Appreciation Night and Youth Week. Your response has been that "it was a time for members to get together and enjoy each other's fellowship." With respect to the amount of funds spent on these activities, you advised us that these amounts were spent to prepare meals for these events. To date, you have been unable to demonstrate to us the charitable nature of these activities.

Under subsection 149.1(2) of the *Act*, the Minister may revoke the registration of the registered charity in the manner as described at paragraph 168(1)(b) of the *Act* because the registered charity has failed to comply with the requirements of the *Act* for its registration as such.

#### **6. Statement of Remuneration Paid**

The audit indicates that the Charity did not prepare and issue a proper Statement of Remuneration (Form T4) to its employees, nor a T4 Summary to the CRA. In addition, no payroll deductions were made by the Charity for the employees and remitted to the CRA. The audit revealed that during 2003 and 2004, the senior pastor received amounts totalling \$29,850 and \$21,400, respectively. No T4's were issued.

In addition, no Form T4A's were issued to the guest speaker during the period under review. The audit revealed that amounts totalling \$11,000 and \$56,410 were paid to guest speakers for 2003 and 2004, respectively. In the absence of a contract or invoice which stipulates the goods or services provided, Regulation 200(2) of the Act requires that where an amount has been paid that is required to be included in determining a taxpayer's income from an office or employment, an information slip in respect of such payment shall be issued to that individual or contractor.

Pursuant to Section 153(1) of the Act, every person paying a salary or wages or other remuneration shall deduct or withhold therefrom such amount as may be determined in accordance with prescribed rules and at such time as may be prescribed, remit that amount to the Receiver General of Canada. Regulation 200(1) further requires that the person prepare Information Returns such as T4's at the end of the year.

Should you require more information on the preparation of T4s, T4A's or similar information slips, please contact your local district office of the CRA.

Accordingly, a charitable organization is not at liberty to transfer funds for the benefit of the work of a missionary or another organization (mission) unless the recipient is an employee of the charity, or agent of the charity under contract, or a "qualified donee".

Where a charity transfers funds or resources to contractors, agents or partners, the CRA is prepared to view the transfer as a devotion of the charity's resources to its own charitable activities, where:

- the charity retains reasonable assurance before funding/entering into the arrangement with the agent, partner or contractor that the agent, partner or contractor will be able to deliver the services required by the charity (by virtue of the other party's reputation, expertise, etc.);
- all expenditures are intended to further the Canadian charity's purposes;  
an adequate agreement is in place (the Agency recommends a written agreement (see requirements below) that is available to it for public release);
- the charity regularly monitors the progress of the project through adequate reports and records of expenditures received from the other party and makes periodic payments on the basis of this monitoring, maintaining the right to discontinue payments should the charity not be satisfied, and
- the charity provides satisfactory evidence that it has properly monitored the contract.

Where a charity's arrangements do not satisfy those guidelines, the charity must otherwise satisfy the CRA that it retains the degree of control required by law over the ultimate use of the resources passed to another party. An organization that cannot clearly demonstrate the necessary degree of control is unlikely to qualify for registered charitable status. If registered, the organization may be subject to the loss of its charitable status.

Written Agreements - The minimum elements in a written agreement are:

- names and addresses of all parties;
- the duration of the agreement;
- a description of the specific activities for which funds have been transferred, in sufficient detail to enable the recipient to determine the extent of his authority;

- provision of written progress reports (or other written documentation from the funding recipient or through an on-site visit, minutes of meetings, etc.) and/or provision for the Canadian charity to inspect the project on a reasonable basis;
- provision for periodic payments on evidence of reasonable progress (Board meetings, letters, reports, visits, etc.) that demonstrates that the funds are being applied for the specific activities outlined in the agreement;
- provision for the Canadian charity's discretion in withdrawing funds and controlling the use of its funds provided to the contractor;
- provision for the maintenance of adequate records in Canada;
- in the case of agency agreements, provision for the charity's funds to be segregated from those of the agent and for the agent to keep separate books and records, and
- the signatures of both parties/dates.

Under subsection 149.1(2) of the *Act*, the Minister may revoke the registration of the registered charity in the manner as described at paragraph 168(1)(e) of the *Act* because the registered charity has failed to comply with or contravenes any of sections 230 to 231.5 of the *Act*.

**Conclusion:**

For each of the reasons listed above, it appears that there are grounds to revoke 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 Act, provided it does not qualify as a non-profit organization as described in Paragraph 149(1)(l) of the Act;
2. the 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;
3. the possibility of a tax payable under Part V, section 188 of the Act; and

4. the loss of the Charity's status as a charity for purposes of subsection 123(1) of the *Excise Tax Act* (hereinafter, the *ETA*), which means that
- its supplies will no longer be exempt from the Goods and Services Tax/Harmonized Sales Tax (hereinafter, the "GST/HST") under Part V.1 of Schedule V to the *ETA*;
  - it may, if not currently, have to register for GST/HST purposes under subsection 240(1) of the *ETA*;
  - it may no longer calculate its net tax for GST/HST purposes using the calculation method set out under subsection 225.1(2) of the *ETA*;
  - it will no longer qualify for the public service body rebate under subsection 259(3) of the *ETA* as a charity; and
  - it may be subject to obligations and entitlements under the *ETA* that apply to organizations other than charities.

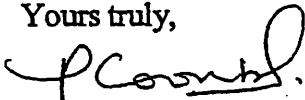
For your reference, we have attached (Appendix "A"), a copy of the relevant provisions of the *Act* concerning revocation of registration and the tax applicable to revoked charities as well as appeals against revocation. The relevant *ETA* provisions are also attached (Appendix "B"). If you have any questions about your GST/HST obligations and entitlements, please call GST/HST Rulings at 1-800-959-8287.

If you do not agree with the facts outlined above, or if you wish to present any reasons why the CRA should not revoke the registration of Evidence Ministries in accordance with subsection 168(2) of the *Act*, we invite you to submit your representations **within 30 days from the date of this letter**. Subsequent to that 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 the registration of Evidence Ministries in the manner described in subsections 168(1) and (2) of the *Act*.

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

If you have any questions or require further information or clarification, please do not hesitate to call the undersigned at the number indicated below; you may also write to me at the address indicated at the bottom of this letter.

Yours truly,



Pauline Coombs  
Tax Auditor  
Audit Division  
Toronto Centre Tax Services Office  
Telephone: (416) 410-5749  
Fax: (416) 954-6015  
Address: 1 Front Street West, Suite 100  
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Encl.

Internet: [www.cra-arc.gc.ca/charities](http://www.cra-arc.gc.ca/charities)