



REGISTERED MAIL

Le Centre Chrétien Beth-Eden/Christian Centre
955 Dunsmure Road
Hamilton ON L8H 1J3

Attention: Gilbert Kienansatuko

BN: 879154904

File #: 3024382

June 3, 2013

Subject: Revocation of Registration
Le Centre Chrétien Beth-Eden/Christian Centre

Dear Sir:

The purpose of this letter is to inform you that a notice revoking the registration of Le Centre Chrétien Beth-Eden/Christian Centre (the Organization) was published in the *Canada Gazette* on June 1, 2013. Effective on that date, the Organization ceased to be a registered charity.

Consequences of Revocation:

- a) The Organization is no longer exempt from Part I tax as a registered charity and **is no longer permitted to issue official donation receipts**. This means that gifts made to the Organization are no longer allowable as tax credits to individual donors or as allowable deductions to corporate donors under subsection 118.1(3), or paragraph 110.1(1)(a), of the *Income Tax 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 prescribed form T-2046, *Tax Return Where Registration of a Charity is Revoked* (the Return). The Return 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. A copy of the Return is enclosed. The related Guide RC-4424, *Completing the Tax Return Where Registration of a Charity is Revoked*, is available on our website at www.cra-arc.gc.ca/E/pub/tg/rc4424.

Section 188(2) of the Act stipulates that a person (other than a qualified donee) who receives an amount from the Organization is jointly and severally

liable with the Organization for the tax payable under section 188 of the Act by the Organization.

- c) The Organization no longer qualifies as a charity for purposes of subsection 123(1) of the *Excise Tax Act* (ETA). As a result, the Organization may be subject to obligations and entitlements under the ETA that apply to organizations other than charities. If you have any questions about your Goods and services tax/harmonized sales tax (GST/HST) obligations and entitlements, please call GST/HST Rulings at 1-888-830-7747 (Quebec) or 1-800-959-8287 (rest of Canada).

In accordance with *Income Tax Regulation* 5800, the Organization is required to retain its books and records, including duplicate official donation receipts, for a minimum of two years after the Organization's effective date of revocation.

Finally, we wish to 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 of National Revenue in the prescribed form, containing prescribed information, for each taxation year. The return of income must be filed without notice or demand.

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,



Danie Huppé-Cranford
Director
Compliance Division
Charities Directorate
Telephone: 613-957-8682
Toll free: 1-800-267-2384

Enclosures

- Copy of the Return (form T-2046)
- Canada Gazette publication

c.c.: Mr. Maurice Kabisoso





APR 23 2013

REGISTERED MAIL

Le Centre Chrétien Beth-Eden/Christian Center
955 Dunsmure Rd.,
Hamilton ON L8H 1J3

BN: 879154904RR0001
File #: 3024382

Attention: Gilbert Kienansatuko

**Subject: Notice of Intention to Revoke
Le Centre Chrétien Beth-Eden/Christian Center**

Dear Mr. Kienansatuko:

I am writing further to our letter dated September 4, 2012 (copy enclosed), in which you were invited to submit representations as to why the registration of Le Centre Chrétien Beth-Eden/ Christian Center (the Organization) should not be revoked in accordance with subsection 168(1) of the *Income Tax Act*.

A copy of the above letter was also sent to the board members of the Organization on October 4, 2012. Additionally, the President as well as an additional board member was also notified by telephone on three separate occasions, October 11, October 17 and November 9, 2012, of the status of the audit. An additional extension was granted allowing the Organization to provide a response by November 16, 2012. As of this date, we still have not received any response to our letter.

Conclusion:

The Canada Revenue Agency's (CRA) audit has revealed that the Organization is not complying with the requirements set out in the *Income Tax Act*. In particular, it was found that the Organization failed to maintain adequate books and records to support its reported revenue and expenditures, as well as to support its charitable activities. The Organization did not maintain duplicate copies of all the donation receipts it issued; consequently, we were unable to quantify the amount of the receipts issued. In addition, the Organization failed to meet its disbursement quota requirement, failed to exercise direction and control over resources and made errors on form T3010, *Registered Charity Information Return*. For all of these reasons, and for each reason alone, it is the position of the CRA that the Organization no longer meets the requirements necessary for charitable registration and should be revoked in the manner described in section 168(1) of the Act.

Consequently, for each of the reasons mentioned in our letter dated September 4, 2012, I wish to advise you that, pursuant to subsection 168(1) and 149.1(2) of the Act, I propose to revoke the registration of the Organization. By virtue of subsection 168(2) of the Act, 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), 168(1)d, 168(1)(e) and subsection 149.1(2)(b) 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.

Business Number
879154904RR0001

Name
Le Centre Chrétien Beth-
Eden/Christian Center
Hamilton ON

Should you wish to object to this notice of intention to revoke the Organization's registration in accordance with subsection 168(4) 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 day this letter was mailed. 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

Notwithstanding the filing of an Objection, a copy of the revocation notice, described above, will be published in the *Canada Gazette* after the expiration of **30 days** from the date this letter was mailed. 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 intent to revoke registration can be found in Appendix "A", attached.

Consequences of Revocation

As of the effective date of revocation:

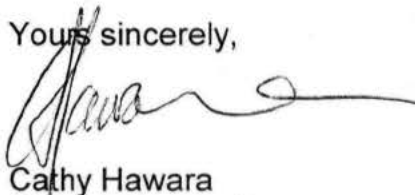
- a) the Organization will no longer be exempt from Part I Tax as a registered charity and **will no longer be permitted to issue official donation**

allowable as tax credits to individual donors or as allowable deductions to corporate donors under subsection 118.1(3), or 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 prescribed form T-2046, *Tax Return Where Registration of a Charity is Revoked* (the Return). The Return 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. A copy of the relevant provisions of the Act concerning revocation of registration, the tax applicable to revoked charities, and appeals against revocation, can be found in Appendix "A", attached. Form T-2046 and the related Guide RC-4424, *Completing the Tax Return Where Registration of a Charity is Revoked*, are available on our website at www.cra-arc.gc.ca/charities;
- c) the Organization will no longer qualify as a charity for purposes of subsection 123(1) of the *Excise Tax Act* (ETA). As a result, the Organization 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 1-888-830-7747 (Quebec) or 1-800-959-8287 (rest of Canada).

Finally, I wish to 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,



Cathy Hawara
Director General
Charities Directorate

Attachments:

- CRA letter dated September 4, 2012
- Appendix "A", Relevant provisions of the Act

c.c.: Mr. Maurice Kabisoso





CANADA REVENUE
AGENCY

AGENCE DU REVENU
DU CANADA

September 4, 2012

REGISTERED MAIL

Le Centre Chretien Beth-Eden/Christian Center
[Redacted Address]

Attention: Gilbert Kienansatuko

BN: 87915 4904RR0001
File #: 3024382

Subject: Audit of Le Centre Chretien Beth-Eden/Christian Center

Dear Mr. Kienansatuko:

This letter is further to the audit of the books and records of Le Centre Chretien Beth-Eden/Christian Center (the Organization) by the Canada Revenue Agency (the CRA). The audit related to the operations of the Organization for the period from June 1, 2008 to May 31, 2010.

The CRA was unable to conduct any additional meetings and have therefore not been able to alleviate any of the concerns identified in the audit. The specific areas of non-compliance with the provisions of the Income Tax Act (the Act) and/or its Regulations, identified, are in the following areas:

AREAS OF NON-COMPLIANCE:		
	Issue	Reference
1.	Failure to Maintain Adequate Books and Records	168(1)(e), 230(2), 231.1(1)
2.	Failure to Devote All of Its Resources to its Charitable Purposes & Activities	149.1(2)(b), 168(1)(b)
3.	Issuing Receipts Not in Accordance with the Act or its Regulations	Reg. 3501, 168(1)(d)
4.	Activities Outside Canada	168(1)(b)
5.	Failure to Meet Its Disbursement Quota	149.1(2)(b), 168(1)(b)
6.	Failure to File an Accurate T3010 <i>Registered Charity Information Return</i>	149.1(14), 168(1)(c)

The purpose of this letter is to describe the areas of non-compliance identified by the CRA as they relate to the legislative and common law requirements applicable to registered charities, and to provide the Organization with the opportunity to make additional representations or present additional information. In order for a registered charity to retain its registration, legislative and common law compliance is mandatory,

absent which the Minister of National Revenue (the Minister) may revoke the Organization's registration in the manner described in section 168 of the Act.

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

Identified Areas of Non-Compliance:

1. Failure to Maintain Adequate Books & Records

Legislation:

Subsection 231.1(1) of the Act permits an authorized person to inspect, audit or examine the books and records of a taxpayer and any document of the taxpayer or of any other person that relates or may relate to the information that is or should be in the books or records of the taxpayer or to any amount payable by the taxpayer under the Act.

Subsection 230(2) of the Act requires that every registered charity maintain adequate books and records, and books of account, at an address in Canada recorded with the Minister. In addition to retaining copies of donation receipts as explicitly required by subsection 230(2), subsection 230(4) provides that:

"Every person required by this section to keep records and books of account shall retain:

- (a) the records and books of account referred to in this section in respect of which a period is prescribed, together with every account and voucher necessary to verify the information contained therein, for such period as prescribed; and
- (b) all other records and books of account referred to in this section, together with every account and voucher necessary to verify the information contained therein, until the expiration of six years from the end of the last taxation year to which the records and books of account relate."

The policy of the CRA relating to the maintenance of books and records, and books of account, is based on several judicial determinations, which have held that:

- it is the responsibility of the registered charity to prove that its charitable status should not be revoked (*Canadian Committee for the Tel Aviv Foundation v. Canada*);
- a registered charity must maintain, and make available to the CRA *at the time of an audit*, meaningful books and records, regardless of its size or resources. It is

not sufficient to supply the required documentation and records subsequent thereto (*Canadian Committee for the Tel Aviv Foundation v. Canada*; *The Lord's Evangelical Church of Deliverance and Prayer of Toronto v. Canada*, (2004) FCA 397); and

- the failure to maintain proper books, records and records of account in accordance with the requirements of the *Act* is itself sufficient reason to revoke an organization's charitable status (*College Rabbinique de Montreal Oir Hachaim D'Tash v. Canada (Minister of the Customs and Revenue Agency*, (2004) FCA 101; section 168(1) of the *Act*).

Audit Findings:

The audit revealed that the Organization failed to maintain adequate books and records to permit the verification of the reported financial information, and that the Organization is satisfying its legal obligations under the *Act* and is operating for charitable purposes. The Organization lacked source documentation to support reported revenue and expenses.

The Organization maintains the following books and records:

- a donation listing including only the name of the donor along with the donation amount; and,
- original offering envelopes which consist of several different types and sizes, including the donor's name and donation amount;
- meeting minutes; and
- the majority of bank statements are maintained.

A comparison was done between the donation listing and the offering envelopes and there was a variance of \$850.00. There were instances where there was an offering envelope for a donor that did not get reported on the donation listing. The Organization did not maintain any copies of the donation receipts so it is not clear if the donation listing is all inclusive. In addition, there was an official donation receipt issued that was not found to be included on the list or included in the amount reported at Line 4500 of the T3010:

Receipt #: 2010-BECC??? issued to [REDACTED] (aka [REDACTED]) in the amount of \$4,500.00. (Copy is attached)

The Organization does not maintain a general ledger and the President indicated that the bookkeeping system was lacking in 2009 and 2010 as he admitted that his knowledge of accounting was not strong. He indicated that he was implementing a better bookkeeping system that would address any deficiencies; however, this was not shown to the auditor. The organization did not have any supporting documentation to

substantiate any of the expenses claimed by the Organization as there were no invoice and the Organization did not keep copies of any cancelled cheques.

The information provided by the organization was not sufficient evidence to support books and records.

Conclusion:

Under paragraph 168(1)(e) of the *Act*, the Minister may, by registered mail, give notice to the charity that the Minister proposes to revoke its registration because it fails to comply with or contravenes section 230 of the *Act* dealing with books and records. It is our position the Organization has failed to comply with and has contravened section 230 of the *Act*. For this reason alone there may be grounds to revoke the registered status of the Organization under paragraph 168(1) (e) of the *Act*.

2. Failure to Devote All of Its Resources to its Charitable Purposes & Activities

Legislation:

As per 149.1(2) (b) of the *Act*, registered charities are required to devote their resources to activities in furtherance of the purposes for which they were registered. The *Act* requires a charity to devote all its resources to charitable activities carried on by the charity itself. As confirmed by the courts, this means a charity must control all activities carried out on its behalf, and not act as a passive funding body for any other organization that is not a qualified donee.

Audit Findings:

During the course of the audit, it was unclear that the Organization had devoted any of its resources to charitable activities. However, given the above conclusions that the books and records of the Organization are inadequate, of the \$27,274.00 claimed as total expenses for 2010, we were unable to determine the amounts spent on charitable activities or the percentage of resources devoted to such activities in furtherance of the purposes for which the Organization was registered.

Conclusion:

Based on the lack of documentation and tangible evidence, it does not appear the Organization has operated within the charitable mandate. Under paragraph 168(1) (b) of the *Act*, the Minister may, by registered mail, give notice to the charity that the Minister proposes to revoke its registration because it ceases to comply with the requirements of the *Act* for its registration as such.

3. Issuing Donation Receipts Not in Accordance with the Act or its Regulations

Legislation:

The law provides various requirements in respect of official donation receipts issued by registered charities. These requirements are contained in Regulation 3501 of *the Act* and are described in some detail in Interpretation Bulletin IT-110R3 entitled Gifts and Official Donation Receipts.

Audit Findings:

Our review of the Organization's official donation receipts determined that they were not issued in accordance with Regulation 3501 of the *Act* and IT-110R3 as explained hereafter.

The official donation receipts issued by the Organization were missing the following elements:

- Official copy to be submitted to CRA did not contain a space for the donor address and therefore the donor address was missing;
- the name Canada Revenue Agency (CRA) and the website of CRA were missing; and
- the charitable registration number is incorrectly recorded as 879154904RP001.

In addition, the Organization did not maintain any copies of the receipts issued. A word program was used to prepare the official donation receipt but at the time of issuance, the Organization would print off blank receipts and fill them out manually, and a photocopy was not made.

The Organization indicated it had purchased approximately between 1,000 and 2,000 carbon copies of official donation receipts and intended to use them for the 2011 taxation year. Since this was not part of the audit period, any receipts for 2011 were not reviewed. A meeting to review any new measures being implemented by the Organization to correct any deficiencies was not held.

Also, charities are expected to guard against the unauthorized use of official receipts. Most charities arrange through a printer for a supply of blank, serially-numbered receipts to be on hand at any given time. The charity must control the use of its receipts and, in the event of lost or stolen receipts, should notify Revenue Canada, Charities Division, at the address noted below. It may be necessary in such circumstances to cancel the registration number and obtain a new one from the Department. At the time of the audit, the President indicated that the blank receipts are all kept at his home; however a large pile of original receipts printed from Word, were in his open briefcase on the day of the meeting.

The donation listing maintained by the Organization, for 2008, does not include any receipt numbers and it is not known when the receipts were in fact issued and to what fiscal period they can be attributed. The total does not reconcile to the total receipted amount reported on Line 4500 of either the 2008, 2009 or 2010 fiscal period.

The Organization indicated there were some donations of gifts in kind; however, official donation receipts were not always issued. It is not known if receipts were issued for gifts in kind as the receipts were not maintained.

Conclusion:

Paragraph 168(1) (d) of the *Act* provides that where a registered charity issues an official receipt for a gift or donation otherwise than in accordance with the *Act* and regulations, the Minister may give notice to the registered charity that he proposes to revoke its registration.

4. Activities Outside Canada

Legislation:

The Act permits a registered charity to carry out its charitable purposes both inside and outside Canada, in only two ways:

- It can make gifts to other organizations that are on the list of qualified donees set out in the. Qualified donees include Canadian registered charities, certain universities outside Canada, the United Nations and its agencies and a few foreign charities.
- It can carry on its own activities. In contrast to the relatively passive transfer of money or other resources involved in making gifts to qualified donees, carrying on one's own activities implies that the Canadian charity is an active and controlling participant in a program or project that directly achieves a charitable purpose.

In order to give meaning and effect to the Act, a charity must continue to meet all of its obligations whether the activities are undertaken directly, through agency agreements or through any other arrangements. Since the Act requires a charity to show that it effectively directs and actually controls its own activities, the agency agreement that a charity puts in place and the manner in which the charity implements that agreement must allow the charity to discharge its statutory obligations.

The existence of either a written or verbal agency agreement is only one example of evidence required to show that a sufficient principal-agent relationship truly exists. The charity through documented evidence, must demonstrate that actual events transpired which prove the continued existence of the principal-agent relationship. Thus, the charity must provide the CRA with a means of examining the internal decision making

mechanisms within the charity's own structure through records, such as: minutes of board meetings; internal communications (i.e., memoranda); as well as, policies and procedures that show that the charity, by directing and controlling each of its activities, acted as the guiding-mind in the principal-agent relationship. In addition, the charity must provide source documentation, reports, and the various other instruments it received from its agent showing that throughout the life of the principal-agent relationship, the agent reported back to the principal in such a manner and frequency as to allow the principal to make informed decisions about the resources and projects for which the principal was responsible.

It is the CRA's view that this type of reporting mechanism is necessary for the charity 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 charity's other records and books of account at the address recorded with the CRA.

For purposes of the Act, when a registered charity merely transfers its resources to another entity (assuming the entity is a non-qualified donee), but fails to maintain effective direction and Actual control over those resources, the result is the same as a gift to a non-qualified donee. Allowing a non-qualified donee to take near total control of the resources of a registered charity nullifies the purpose and intent of the Act.

Audit Findings:

The T3010 does not indicate any work outside Canada, however, there is a church and school that is located in the Congo with the same name as the Canadian charity and is registered with the African government. There are approximately 105 children enrolled in school with 3 teachers. Each teacher earns \$50 a month plus a \$25 bonus for transportation. Approximately \$7,000 per year is sent to Africa. Land was purchased recently for approximately \$24,000. Items such as books, desks and computers have been or will be shipped as well in containers.

There is no agreement in place as the president of the Canadian organization is also the president of the African one and he spends between 45 and 60 days at a time, twice a year. While there, he speaks and teaches at Universities as he has a doctorate in theology with the hopes of raising funds and he indicated that most of the money spent on this church and school is in fact raised in Africa. He indicated that there was email correspondence as well as SMS, and SKYPE and phone calls

The Organization did provide documentation, issued by the African government, to show that it was operating in the Congo, and travel itineraries were provided by a third party which did verify the President's travel to the Congo. However, there was no documentation provided to verify the \$7,000 purportedly spent on activities in the Congo. Documentation regarding a land purchase in the Congo was not provided and the source of funds to purchase the land is not known. No shipping documentation was provided to verify that any items needed such as books, desks and computers, had in fact been shipped. Copies of text messages (SMS) were not printed/kept and/or

provided to the auditor. A meeting to discuss the outstanding items such as work done in the Congo was never conducted.

Conclusion:

Based on the lack of documentation and tangible evidence, the Organization cannot show how the Canadian charity is an active and controlling participant in a program or project that directly achieves a charitable purpose. The Minister may revoke the registration of the Charity, because it has failed as described at paragraph 168(1) (b) of the *Act* to comply with the requirements of the *Act* for its registration as such.

5. Failure to meet its Disbursement Quota

Legislation:

The disbursement quota is the minimum amount that a registered charity is required to spend each year on its own charitable activities, or on gifts to qualified donees (for example, other registered charities). The disbursement quota calculation is based on the value of a charity's property not used for charitable activities or administration.

Audit Findings:

Due to the issues noted above, mainly the inadequate books and records, it cannot be determined if the Organization is in fact spending the minimum required amount.

Conclusion:

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

6. Failure to File an Accurate T3010 Registered Charity Information Return & Delinquent Filing

Legislation:

Pursuant to subsection 149.1(14) of the *Act*, every registered charity must, within six months from the end of the charity's fiscal period (taxation year), without notice or demand, file a *Registered Charity Information Return* (T3010) with the applicable schedules.

It is the responsibility of the Organization to ensure that the information that is provided in its T3010, schedules and statements, is factual and complete in every respect. A charity is not meeting its requirement to file an information return if it fails to exercise due care with respect to ensuring the accuracy thereof.

Audit Findings:

The following errors or omissions were made on the T3010 for fiscal period ending 05/31/2010:

Section C – Programs and General Information

The Organization answered no to C4 (2100) regarding carrying on activities outside of Canada. This was incorrect as during the audit it was discovered that the Organization was operating outside of Canada. Schedule 2 was not completed.

Also, the T3010's have been filed late; summarized in the following table:

Fiscal Period Ending	Due Date of T3010	Date Filed with CRA
2011/05/31	2011/11/30	2012/04/04
2010/05/31	2010/11/30	2010/12/06
2008/05/31	2008/11/30	2009/02/17
2007/05/31	2007/11/30	2007/12/04

Conclusion:

Under paragraph 168(1)(c) of the Act, the Minister may, by registered mail, give notice to the registered charity that the Minister proposes to revoke its registration if it fails to file an information return as when required under the Act. It is our position the Organization has failed to comply with the Act by failing to file an accurate T3010. For this reason there may be grounds to revoke the registered status of the Organization under paragraph 168(1) (c) of the Act.

The Organization's Options:

a) No Response

You may choose not to respond. In that case, the Director General of the Charities Directorate may 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 respond, 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; or
- the Minister 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 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 contact the undersigned at the numbers indicated below.

Yours truly,



Sherry Head
Compliance Programs Branch
Kitchener/Waterloo Tax Services Office

Telephone: [REDACTED]
Facsimile: (519) 585-2803
Address: 166 Frederick Street
Kitchener, ON N2G 4N1

Section 149.1 Qualified Donees

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; or
- (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.

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;
- (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 (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;
- (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; and
- (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.

Section 168:**Revocation of Registration of Certain Organizations and Associations****168(1) Notice of intention to revoke registration**

Where a registered charity or a registered Canadian amateur athletic association

- (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 as such,
 - (c) fails to file an information return as and when required under this Act or a regulation,
 - (d) issues a receipt for a gift or donation 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 or donation the granting of which was expressly or impliedly conditional on the association making a gift or donation to another person, club, society or association,
- the Minister may, by registered mail, give notice to the registered charity or registered Canadian amateur athletic association that the Minister proposes to revoke its registration.

168(2) Revocation of Registration

Where the Minister gives notice under subsection (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,
- (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, or
- (g) refuses to accept for registration for the purposes of this Act any retirement income fund,

the person in a case 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), or the administrator of the plan or an employer who participates in the plan, in a case described in paragraph (f) or (f.1), 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),
- (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), or
- (d) the time the decision of the Minister to refuse the application for acceptance of the amendment to the 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.

Section 188: Revocation tax

188(1) Deemed year-end on notice of revocation

If on a particular day the Minister issues a notice of intention to revoke the registration of a taxpayer as a registered charity under any of subsections 149.1(2) to (4.1) and 168(1) or it is determined, under subsection 7(1) of the Charities Registration (Security Information) Act, that a certificate served in respect of the charity under subsection 5(1) of that Act is reasonable on the basis of information and evidence available,

- (a) the taxation year of the charity that would otherwise have included that day is deemed to end at the end of that day;
- (b) a new taxation year of the charity is deemed to begin immediately after that day; and
- (c) for the purpose of determining the charity's fiscal period after that day, the charity is deemed not to have established a fiscal period before that day.

188(1.1) Revocation tax

A charity referred to in subsection (1) is liable to a tax, for its taxation year that is deemed to have ended, equal to the amount determined by the formula

$$A - B$$

where

A is the total of all amounts, each of which is

- (a) the fair market value of a property of the charity at the end of that taxation year,
- (b) the amount of an appropriation (within the meaning assigned by subsection (2) in respect of a property transferred to another person in the 120-day period that ended at the end of that taxation year, or
- (c) the income of the charity for its winding-up period, including gifts received by the charity in that period from any source and any income that would be computed under section 3 as if that period were a taxation year; and

B is the total of all amounts (other than the amount of an expenditure in respect of which a deduction has been made in computing income for the winding-up period under paragraph (c) of the description of A, each of which is

- (a) a debt of the charity that is outstanding at the end of that taxation year,
- (b) an expenditure made by the charity during the winding-up period on charitable activities carried on by it, or
- (c) an amount in respect of a property transferred by the charity during the winding-up period and not later than the latter of one year from the end of the taxation year and the day, if any, referred to in paragraph (1.2)(c) to a person that was at the time of the transfer an eligible donee in respect of the charity, equal to the amount, if any, by which the fair market value of the property, when transferred, exceeds the consideration given by the person for the transfer.

188(1.2) Winding-up period

In this Part, the winding-up period of a charity is the period, that begins immediately after the day on which the Minister issues a notice of intention to revoke the registration of a taxpayer as a registered charity under any of subsections 149.1(2) to (4.1) and 168(1) (or, if earlier, immediately after the day on which it is determined, under subsection 7(1) of the Charities Registration (Security Information) Act, that a certificate served in respect of the charity under subsection 5(1) of that Act is reasonable on the basis of information and evidence available), and that ends on the day that is the latest of

- (a) the day, if any, on which the charity files a return under subsection 189(6.1) for the taxation year deemed by subsection (1) to have ended, but not later than the day on which the charity is required to file that return,
- (b) the day on which the Minister last issues a notice of assessment of tax payable under subsection (1.1) for that taxation year by the charity, and
- (c) if the charity has filed a notice of objection or appeal in respect of that assessment, the day on which the Minister may take a collection action under section 225.1 in respect of that tax payable.

188(1.3) Eligible donee

In this Part, an eligible donee in respect of a particular charity is a registered charity

- (a) 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;
- (b) that is not the subject of a suspension under subsection 188.2(1);
- (c) that has no unpaid liabilities under this Act or under the Excise Tax Act;
- (d) that has filed all information returns required by subsection 149.1(14); and
- (e) 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.

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) Transfer of property tax

Where 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 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

$$A - B$$

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

$$A - B$$

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 exceeds
 - (ii) the income of the charity for the post-assessment period, including gifts received by the charity in that period from any source and any income that would be computed under section 3 if that period were a taxation year, and
- (b) all amounts, each of which is an amount, in respect of a property transferred by the charity before the particular time and during the post-assessment period to a person that was at the time of the transfer an eligible donee in respect of the charity, equal to the amount, if any, by which the fair market value of the property, when transferred, exceeds the consideration given by the person for the transfer.

189(6.3) Reduction of liability for penalties

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