



REGISTERED MAIL

Toronto Abundant Life Fellowship Assemblies
50 Gervais Drive, Suite 500C
Toronto ON M3C 1Z3

Attention: Michael Mallay

BN: 11926 5775

File #: 0744565

August 30, 2011

Subject: Revocation of Registration
Toronto Abundant Life Fellowship Assemblies

Dear Sir:

The purpose of this letter is to inform you that a notice revoking the registration of Toronto Abundant Life Fellowship Assemblies (the Organization) was published in the *Canada Gazette* on August 27, 2011. 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.

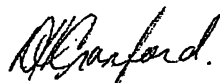
- c) The Organization no longer qualifies as a charity for purposes of subsection 123(1) of the *Excise Tax Act* (ETA). As a result, the Organization may be subject to obligations and entitlements under the ETA that apply to organizations other than charities. If you have any questions about your GST/HST 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 (the Minister) 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.: Michael Frotten



Canada Revenue
Agency

Agence du revenu
du Canada

JUL 13 2011

REGISTERED MAIL

Toronto Abundant Life Fellowship Assemblies
50 Gervais Drive, Suite 500C
Toronto ON M3C 1Z3

BN: 119265775RRO001

Attention: Michael Mallay

File #: 0744565

**Subject: Notice of Intention to Revoke
Toronto Abundant Life Fellowship Assemblies**

Dear Mr. Mallay:

I am writing further to our letter dated November 30, 2010 (copy enclosed), in which you were invited to submit representations as to why the registration of Toronto Abundant Life Fellowship Assemblies (Pentecostal) Inc. (the Organization) should not be revoked in accordance with subsection 168(1) of the *Income Tax Act*.

We have now reviewed and considered your written response dated December 17, 2010. However, notwithstanding your reply, our concerns with respect to the Organization's non-compliance with the requirements of the Act for registration as a charity have not been alleviated. Our position is fully described in Appendix "A" attached.

Conclusion:

The Canada Revenue Agency's (CRA) audit has revealed that the Toronto Abundant Life Fellowship Assemblies (Pentecostal) Inc. (the Organization) was not complying with the requirements set out in the *Income Tax Act*. In particular, it was found that the Organization did not keep adequate books and records to support its reported revenue and expenditures, or to support its charitable activities both foreign and domestic. For each of these reasons and other concerns identified during the course of the audit, it is the CRA's view that the Organization no longer meets the requirements necessary for charitable registration.

Consequently, for each of the reasons mentioned in our letter dated November 30, 2010, I wish to advise you that, pursuant to subsection 168(1) 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*:

Canada

Place de Ville, Tower A
320 Queen Street, 13th Floor
Ottawa ON K1A 0L5

R350 E (08)

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.

Business Number	Name
119265775RR0001	Toronto Abundant Life Fellowship Assemblies (Pentecostal) Inc. Toronto, 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

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, unless the Canada Revenue Agency (CRA) receives an order, **within the next 30 days**, from the Federal Court of Appeal issued under paragraph 168(2)(b) of the Act extending that period.

Please note that the Organization must obtain a stay to suspend the revocation process, notwithstanding the fact that it may have filed a Notice of Objection.

Consequences of Revocation

As of the effective date of revocation:

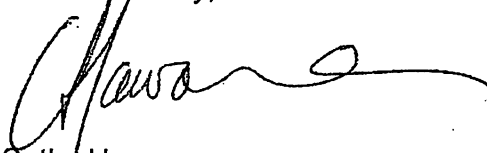
- a) the Organization will no longer be exempt from Part I Tax as a registered charity and **will no longer be permitted to issue official donation receipts**. This means that gifts made to the Organization would not be allowable as tax credits to individual donors or as allowable deductions to corporate donors under subsection 118.1(3), 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 "B", 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 November 30, 2010
- Organization's letter dated December 17, 2010
- Appendix "A" Response to representation of December 17, 2010
- Appendix "B", Relevant provisions of the Act

c.c.: Michael Frotten



CANADA REVENUE
AGENCY

AGENCE DU REVENU
DU CANADA

REGISTERED MAIL

Toronto Abundant Life Fellowship Assemblies
c/o Michael & Rosemarie Mallay
530-665 Kennedy Road
Scarborough, ON M1K 5E2

BN: 119265775RR0001

File #:0744565

November 30, 2010

Subject: Audit of Toronto Abundant Life Fellowship Assemblies

Dear Mr. Mallay:

This letter is further to the audit of the books and records of the Toronto Abundant Life Fellowship Assemblies (the Organization) conducted by the Canada Revenue Agency (the CRA). The audit related to the operations of the Organization for the period from January 1, 2007 to December 31, 2008.

The CRA has identified specific areas of non-compliance with the provisions of the *Income Tax Act* (the Act) and/or its *Regulations* in the following areas:

AREAS OF NON-COMPLIANCE:		
	Issue	Reference
1.	Books and Records	230(2), 168(1)(e)
2.	Official Donation Receipts	Regulation 3501, 168(1)(d)
3.	Activities Outside of Canada	168(1)(b)

The purpose of this letter is to describe the areas of non-compliance identified by the CRA during the course of the audit as they relate to the legislative and common law requirements applicable to registered charities, and to provide the Organization with the opportunity to make additional representations or present additional information. Registered charities must comply with the law, failing which the Organization's registered status may be revoked 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.

WP#120

Identified Areas of Non-Compliance:

1. Books & Records:

Legislation:

Pursuant to subsection 230(2) of the Act, every registered charity must keep records and books of account at an address in Canada recorded with the Minister or designated by the Minister containing (a) information in such form as will enable the Minister to determine whether there are any grounds for revocation of its registration under the Act (b) a duplicate of each receipt containing prescribed information for a donation received by it, and (c) other information in such form as will enable the Minister to verify the donations to it for which a deduction or tax credit is available under the Act.

Audit Findings:

In the course of the audit, the following deficiencies were noted:

- No records/summaries were provided to show how the amounts reported on the original T3010 return and financial statements were arrived at.
- Hand written totals were written on pieces of paper to account for the money spent overseas.
- The audit revealed that there appeared to be a large quantity of donation receipts numbers not accounted for. The Organization has a system of issuing official donation receipts where the number on the receipt is based on the number assigned to the individual at the time when they first began donating to the Organization. An individual that belonged to the Organization in prior years would have an Official Donation Receipt with the same number assigned to their receipt in each subsequent year a donation was made. This system of issuing receipts resulted in many receipt numbers not being issued or not being accounted for. The numbers ranged from TALFA 01 up to TALFA 70 in 2008. Of the listing of numbers, only 21 donation receipts were reportedly issued between this series for 2008 and 16 donation receipts in 2007. Due to the lack of sequential numbering and the duplication of numbering, there is an uncertainty with respect to ensuring that all donation receipts issued are accounted for and reported on the information return.
- The Organization reported issuing donation receipts for the following amounts:

Total Donation Receipts for 2007	<u>\$164,942</u>
Total Donation Receipts for 2008	<u>\$199,955</u>

The 21 donation receipts for the 2008 year and 16 donation receipts for 2007 year totalled \$200,715 and \$111,613 respectively. Neither of these amounts reconcile to the amounts filed on the information return.

Also, the accuracy of the amounts recorded on the receipts issued could not be verified. Although records from the individual donors were provided (the weekly envelopes where donations were made through) that purported to show cash donations made, there was no evidence to support that the Organization had received any of these funds and the amounts could not be verified through bank deposits. Also, the individual envelopes per donor did not match the summaries per donor provided by the Organization. The above amounts were given as cash donations and only \$108,111 was deposited in the Organization's bank account in 2008, a discrepancy of \$91,844. In 2007, the deposits totalled \$16,185, a discrepancy of \$148,757. There were several Official Donation Receipts questioned by the CRA. In the correspondence received back from the Organization, the summaries provided did not match the information provided for review during the audit.

- The documentation provided to support the reported expenditures of \$197,425 in 2008 and \$163,420 in 2007 was minimal and what was supplied was considered to be inadequate. The funds used/withdrawn from the bank account to pay for expenditures amounted to \$47,959 in 2008 and \$19,499 in 2007, a discrepancy of \$149,466 in 2008 and \$143,921 in 2007 to the expenditures reported on the information return. Although the explanation of cash purchases can support some additional expenditures, there was no supporting documentation to support the amounts filed on the information return.

Conclusion:

Our review of the books and records of the Organization indicates the books and records are not acceptable under subsection 230(2) of the Act.

The Minister may revoke the registration of the Organization, because it has failed to comply with or contravened any section of 230 to 230.5 as described at paragraph 168(1)(e) of the Act.

2. Official Donation Receipts:

Legislation:

The law provides various requirements with respect to the issuing of official donation receipts by registered charities. These requirements are contained in Regulations 3500

and 3501 of the Act and are described in some detail in Interpretation Bulletin IT-110R3 *Gifts and Official Donation Receipts*.

Audit Findings

The audit reveals 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:

- There appears to be a lack of control over the donation receipts, as evidenced by the numerous missing receipts.
- As noted previously, there was no evidence to support the amounts for which any of the donation receipts were issued in 2007 and 2008, whether made by cash or by gifts in kind.
- The receipts had the following deficiencies:
 - Does not contain the statement *official donation receipt for income tax purposes*
 - The address on the receipts is not the address registered with CRA
 - Does not contain the date the cash was received
 - Does not have a unique serial number, are not all accounted for and are not issued in a reasonable serial manner
 - The Organization does not maintain at least one exact copy of the issued Official Donation Receipts.
 - There is no log system that accounts for all issued receipts.
 - The computer system could not be verified as safeguarded or controlled only by the appropriate individuals.

Conclusion:

The audit revealed the official donation receipts issued by the Organization did not meet the requirements as set out in Regulation 3501 of the Act. In addition, the controls to account for and safeguard the donation receipts were found to be lacking.

The Minister may revoke the registration of the Organization, because it issued a receipt for a gift or donation otherwise than in accordance with the Act as described at paragraph 168(1)(d) of the Act.

3. Activities Outside of 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 Act. 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. While we have never insisted on the absolute need for a written instrument, we recommend it as a means of meeting the requirements of the Act. Notwithstanding the manner by which a charity chooses to meet its obligations, it must provide documentation or other tangible evidence to substantiate that it met the requirements of the Act with respect to the direction and control of its resources.

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.

From time to time the Charities Directorate has suggested certain guidelines for agency agreements in order to help charities understand all the requirements of the Act. For a number of years, we discussed these guidelines with individual charities on a case-by-case basis. As we identified a growing need in the charities sector for more information on this subject, guidelines have been made available to the public and the sector as a whole through our Internet site.

By observing these guidelines and by keeping proper books and records, a charity should be able to discharge its evidentiary burden of establishing that its principal-agent relationship existed in fact, and that it maintained effective direction and actual control over its resources at all times. In the final analysis, the true test of whether a charity was responsible in a direct, effectual, and constant manner over its resources and activities is not shown by how well it has crafted an agreement but rather, how well it has implemented it through time. Therefore, it is incumbent upon the charity to show that it has properly implemented any agreement it claims is in place.

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.

We have also attached a copy of our Guide RC4106E "*Registered Charities: Operating Outside Canada*" which includes a set of guidelines that we use to help us assess how much effective direction and actual control a registered Canadian charity exercises in greater detail.

Where an agreement exists only in verbal form, or where some of the elements outlined in the aforementioned guidelines are not explicitly expounded in a written agreement, the CRA will look at all supporting documentation as well as the conduct of both parties to ascertain whether or not the registered Canadian charity maintained effective direction and actual control through its relationship with the other organization. The registered Canadian charity must not only show that an appropriate agreement existed (written or otherwise), it must also show that the agreement was implemented in a manner that clearly demonstrates that the registered Canadian charity exercised direct, effectual, and constant responsibility for undertaking the charitable activities to which its resources were applied. In effect, the registered Canadian charity must show that it acted as the principal through the implementation of the agreement.

Audit Findings:

The audit has raised serious concerns with respect to the Organization's local and foreign activities. According to the audit, the Organization has not demonstrated adequate direction and control over its foreign activities.

The largest expense reported by the Organization in the summaries provided during the audit were for \$135,000 in 2007 and \$160,000 in 2008. These purportedly related to

donated and purchased supplies sent to other countries, including Guyana, Cuba and Egypt. The only documentation provided to support this expense were a list of dates and funds, handwritten on the letterhead of the Organization, totalling the amounts sent overseas. These amounts do not reconcile to the amounts filed on the information return. The Organization reported \$12,200 in 2007 and \$11,224 in 2008 at Line 4890, Donated and Purchased Supplies. Also, at Line 5400, which reports Expenditures Outside of Canada, the Organization reported \$30,000 in 2007 and \$49,650 in 2008.

However, even if it could be determined that the money was sent to these countries as stated, this is not sufficient to show that the money was used for charitable purposes, nor that it was under the control of the Organization. There should also be documentation to show that the money was received in the countries listed above, and that the money was used in a charitable program that was under the control of the Organization.

As the Organization apparently has no employees working in Guyana, Cuba or Egypt, the money used in the charitable programs must have either been undertaken by an agent or by a director of the Organization. If this was undertaken by an agent, then it appears that the guidelines that a charity must follow, as summarized in the CRA publication **Canadian Registered Charities Carrying Out Activities Outside Canada**, have not been followed. For example, there was no agency agreement, no regular reports from the agent, etc. If a director of the Organization was responsible for the distribution of the funds to the other countries, there was no evidence to support the funds being taken outside of Canada, where the funds went and what the funds were spent on.

Also, there is no indication of any local activities by the Organization. There is no other information provided that would indicate support of the Charities objectives.

Conclusion:

Based on the lack of documentation and tangible evidence, it does not appear the Organization has maintained effective control and direction over the use of its resources and thereby, has distributed its resources to a non-qualified donee.

Given the above, the Minister may revoke the registration of the Organization, 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.

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

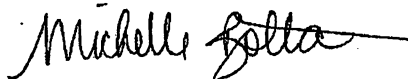
Should you choose to respond, please provide your written representations and any additional information regarding the findings outlined above **within 30 days** from the date of this letter. After considering the representations submitted by the Organization, the Director General of the Charities Directorate 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
- 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 sincerely,



Michelle Bolta
Audit Division
Kitchener/Waterloo TSO

Telephone: 519-896-3655
Facsimile: 519-585-2803
Address: 166 Frederick St., Kitchener, ON
N2G 4N1

cc: Michael Frotten

APPENDIX "A"

Below please find:

- (1) a summary of the issues raised by the Canada Revenue Agency (CRA) in our letter dated November 30, 2010;
- (2) the response provided by the Toronto Abundant Life Fellowship Assemblies (Pentecostal) Inc. (the Organization) in its representations dated December 17, 2010; and
- (3) the CRA's conclusion.

Issue: Books and Records:

The audit revealed that the Organization's books and records did not meet the requirements of subsection 230(2) of the *Income Tax Act*.

In the course of the audit, the following deficiencies were noted:

- No records/summaries were provided to support the amounts reported on the original T3010 returns and financial statements.
- Handwritten totals on pieces of paper were provided to substantiate the funds spent overseas.

There was an inconsistency with the information reported on expenditures on foreign programs and what was provided during the audit. The Organization's T3010 reported expenditures outside of Canada of \$30,000 and \$49,650 in 2007 and 2008, respectively, while the information provided to the auditor indicated expenditures of \$135,000 in 2007 and \$160,000 in 2008. As noted above, these amounts were only supported by handwritten totals representing the amounts purportedly expended in the countries where their programs were reportedly undertaken.

- There appeared to be a large quantity of donation receipts numbers not accounted for as a result of the numbering system in use by the Organization. Due to the lack of sequential numbering and the duplication of numbering, there was an uncertainty with respect to ensuring the completeness and reporting of all donation receipts issued.

- The Organization's T3010 information returns reported issuing donation receipts for the following amounts:

Total Donation Receipts for 2007 \$164,942

Total Donation Receipts for 2008 \$199,955

The 21 donation receipts issued in 2008 and 16 donation receipts issued in 2007 totalled \$200,715 and \$111,613, respectively. Neither of these amounts reconcile to the amounts filed on the information return.

The accuracy of the amounts recorded on the receipts issued could not be verified. Although records for the individual donors were provided (the weekly envelopes where donations were made through), there was no evidence to support that the Organization had received any of these funds and the amounts could not be verified through bank deposits.

Also, the individual envelopes per donor did not match the summaries per donor provided by the Organization. The above amounts were purportedly given as cash donations and only \$108,111 was deposited in the Organization's bank account in 2008, a discrepancy of \$91,844. In 2007, the deposits totalled \$16,185, a discrepancy of \$148,757.

There were several official donation receipts questioned by the CRA. In the correspondence received back from the Organization, the summaries provided did not match the information provided for review during the audit.

The Organization was requested to attest to the completeness of the donation receipts it had issued by signing and submitting a document attesting that the only donation receipts issued by the Organization were those provided from their books and records for review. The signed copy was not returned to the auditor.

- The documentation provided to support the reported expenditures of \$197,425 in 2008 and \$163,420 in 2007 was insufficient and what was supplied was considered to be inadequate. The funds used/withdrawn from the bank account to pay for expenditures amounted to \$47,959 in 2008 and \$19,499 in 2007. Although the explanation of cash purchases could support some additional expenditures, there was no supporting documentation to substantiate the amounts reported on the information return.

Organization's Response:

The Organization stated that its financial statements were prepared by the pastor and small misplacements of figures were explained on the draft income statement provided to the auditor. The figures were filed in the incorrect areas on the information return.

The Organization explained that the funds sent overseas were supported by the handwritten records with the names of people who had transported the amounts and the countries the funds were taken to. Receipts for plane tickets, dates of flights and the reason for the missions were explained and written down properly.

The Organization had explained that it used a system of providing membership numbers at the end of the year for numbering its donation receipts. It also stated that the auditor understood this and that the Organization would follow the auditor's advice concerning the use of sequential numbering for future donation receipts.

In addition, the Organization moved twice in the past two years whereby many receipts and envelopes were overlooked which have now been located. This would explain the reason why the donation receipts do not add up.

The Organization stated it had received most of its donations in cash and spent or transferred these funds without the use of bank accounts. According to the Organization, it will follow the auditor's advice pertaining to future deposits and withdrawals of all funds to the bank accounts.

Conclusion:

The audit revealed that the Organization lacked proper accounting records to enable the determination of both its financial position and the charitable activities being carried on. The books and records were either non-existent or completely inadequate.

The Organization stated that the records they have located will explain the discrepancies in reported revenue. In addition, the Organization re-stated that the information provided during the audit was adequate to support their reported overseas programs.

While the Organization stated it has now located some missing records, no additional information was provided with the representation. In addition, we noted that the Organization specifically mentioned that records relating to donations were located. There was no further representation on supporting documentation pertaining to expenditures.

It was noted that during the audit, the Organization was permitted an extension at the onset of the audit to gather all its books and records for the review. In a subsequent meeting of February 2, 2010, the auditor was informed about some missing records and that they would be provided to him. During the ten months from February 2010 to November 2010, the auditor contacted the Organization on multiple occasions about the missing records but was provided nothing further resulting in the Administrative Fairness Letter dated November 30, 2010.

Given the above and that no further information was provided to the auditor, it is still our position that the Organization did not maintain adequate books and records for the period under review.

Subsection 230(2) of the *Act* states, "Every registered charity and registered Canadian amateur athletic association shall keep records and books of account at an address in Canada recorded with the Minister or designated by the Minister containing

- (a) information in such form as will enable the Minister to determine whether there are any grounds for the revocation of its registration under this Act;
- (b) a duplicate of each receipt containing prescribed information for a donation received by it; and
- (c) other information in such form as will enable the Minister to verify the donations to it for which a deduction or tax credit is available under this Act."

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.

Issue: Official Donation Receipts

As previously noted, the Organization did not provide any documentation to support the amounts for which any of the donation receipts were issued in 2007 and 2008, whether made by cash or by gifts in kind.

The Organization did not comply with the requirements of Regulation 3501 of the Act and IT-110R3 as they did not contain the statement "*official donation for income tax purposes*", did not contain the address in Canada as registered with the Minister, and did not have a unique serial number. In addition, the Organization did not keep at least one exact copy of each official donation receipt issued.

There appeared to be a lack of control over the donation receipts, as evidenced by the numerous missing receipts, there was no log system that accounts for all issued receipts. In addition, the auditor was unable to verify that the computer system was safeguarded or controlled by the appropriate individuals.

Organization's Response:

The Organization stated that they were unable to recover all their donation receipts and envelopes in the time given by the auditor. As noted above, the Organization moved twice in the past two years whereby many receipts and envelopes were overlooked which have now been located.

With respect to the deficiencies noted during the audit, the Organization stated the following:

- Its address was updated for the past two years during their annual filing but was not updated by the CRA;
- Member numbers were used instead of serial numbers on the donation receipts;
- Some donation receipts were printed for subsequent years;
- Copies of donation receipts were kept manually but the Organization was not afforded sufficient time to provide the copies during the audit; and
- The pastor was the only individual who had a laptop that issued donation receipts.

Conclusion:

As previously noted, the Organization had over ten months from the start of the audit to provide the records that were missing during the initial interview which it states it now has, but, nothing was provided with the representation.

Subsection 230(2) of the Act states, "Every registered charity and registered Canadian amateur athletic association shall keep records and books of account at an address in Canada recorded with the Minister or designated by the Minister containing

- (a) information in such form as will enable the Minister to determine whether there are any grounds for the revocation of its registration under this Act;
- (b) a duplicate of each receipt containing prescribed information for a donation received by it; and
- (c) other information in such form as will enable the Minister to verify the donations to it for which a deduction or tax credit is available under this Act."

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.

Issue: Activities Outside of Canada

The audit has raised serious concerns with respect to the Organization's local and reported foreign activities. The audit revealed that the Organization has not demonstrated adequate direction and control over its purported foreign activities.

The expenses indicated by the Organization in the summaries provided during the audit were \$135,000 in 2007 and \$160,000 in 2008. These purportedly related to donated and purchased supplies sent to other countries, including Guyana, Cuba and Egypt. The only documentation provided to support these expenditures was a list of dates and amounts, handwritten on the letterhead of the Organization, totalling the amounts purportedly sent overseas. These amounts did not reconcile to the amounts filed on the information return. The Organization reported \$12,200 in 2007 and \$11,224 in 2008 at Line 4890, Donated and Purchased Supplies. At Line 5400, which reports Expenditures Outside of Canada, the Organization reported \$30,000 in 2007 and \$49,650 in 2008.

However, even if it could be determined that the money was sent to these countries as stated, the information provided would not provide any evidence that the money was used for charitable purposes, nor that it was under the control of the Organization. There should also be documentation to show that the money was received in the countries listed above, and that the money was used in a charitable program that was under the control of the Organization.

As the Organization apparently had no employees working in Guyana, Cuba or Egypt, the money used in the charitable programs must have either been undertaken by an agent or by a director of the Organization. If this was undertaken by an agent, then it appears that the guidelines that a charity must follow, as summarized in the CRA publication **Canadian Registered Charities Carrying Out Activities Outside Canada**, have not been followed. For example, there was no agency agreement, no regular reports from the agent, etc. If a director of the Organization was responsible for the distribution of the funds to the other countries, there was no evidence to support the funds being taken outside of Canada, where the funds went and what the funds were spent on.

Also, there was no indication of any local activities by the Organization. There was no information provided that would support that the funds were used to fulfill the Organization's charitable objectives.

Organization's Response:

The Organization stated the following: *"all of our employees and most of our spending are overseas in countries that are part of our church and not separate missions, with whom we have agreements, members and directors, church missions which are all organized and watched by the president and other directors regularly. "*

Local activities are comprised of weekly Christian church programs held on Fridays and Sundays. The Organization also has missions and helps other charities.

Conclusion:

The response appears to indicate that the foreign programs undertaken by the Organization are by way of agreements with member organizations and which are supervised by the Organization's president and other board members.

The audit revealed a lack of supporting documentation to substantiate these purported activities and, as such, to ensure that the Organization retained direction and control over any resources committed to these activities.

In addition, the significant discrepancies between the expenditures reported on the T3010 and the information provided during the audit on what was purportedly expended in the various countries cause concern.

As noted previously, the Organization did not maintain adequate books and records as described in subsection 230(2) of the Act. This lack of records extended to include the local activities said to have been carried on in Canada.

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.

Section 149.1: [Charities]

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) since June 1, 1950, acquired control of any corporation; or
- (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 the registered charity has made a gift to another registered charity and it can reasonably be considered that one of the main purposes of making the gift was to unduly delay the expenditure of amounts on charitable activities;
- (b) of the other charity referred to in paragraph (a), if it can reasonably be considered that, by accepting the gift, it acted in concert with the registered charity to which paragraph (a) applies; and
- (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.

Section 168: Notice of intention to revoke registration

168(1) 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 that is or was registered as a registered charity or is an applicant for registration as a registered charity that objects to a notice under subsection (1) or any of subsections 149.1(2) to (4.1), (6.3), (22) and (23) 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.

Section 172: Appeal from refusal to register, revocation of registration, etc.

172(3) Appeal from refusal to register, revocation of registration, etc.

Where the Minister

- (a) refuses to register an applicant for registration as a Canadian amateur athletic association,
- (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,
- (b) refuses to accept for registration for the purposes of this Act any retirement savings plan,
- (c) refuses to accept for registration for the purposes of this Act any profit sharing plan or revokes the registration of such a plan,
- (d) refuses to issue a certificate of exemption under subsection 212(14),
- (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 applicant or the organization, foundation, association or registered charity, as the case may be, in a case described in paragraph (a) or (a.1), the applicant in a case described in paragraph (b), (d), (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.

Section 180: Appeals to Federal Court of Appeal

180(1) Appeals to Federal Court of Appeal

An appeal to the Federal Court of Appeal pursuant to subsection 172(3) may be instituted by filing a notice of appeal in the Court within 30 days from

- (a) the day on which the Minister notifies a person under subsection 165(3) of the Minister's action in respect of a notice of objection filed under subsection 168(4),
- (b) the mailing of notice to a registered Canadian amateur athletic association under subsection 168(1),
- (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
- (c) 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
- (d) 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) applies.

188(4) Idem

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”

“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”

“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.

Section 189

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 mailed 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 registered charity in respect of the charity'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 charity after the day on which the Minister first assessed that liability and before the particular time 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 total of

- (a) the consideration given by the 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, 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.