



MAY - 2 2007

BY REGISTERED MAIL

True Faith Church International
415 The Westway
P.O. Box 12589, Martinway Plaza Post
Weston, ON M9R 4C7

Attention: Mr. Ebenezer Adiyiah, Secretary

BN: 87021 9318 RR 0001

**SUBJECT: Notice of Intention to Revoke
True Faith Church International**

Dear Mr. Adiyiah:

I am writing further to our letter dated January 2, 2007 (copy enclosed), in which you were invited to submit representations to us as to why the Minister of National Revenue should not revoke the registration of True Faith Church International (the "Charity") in accordance with subsection 168(1) of the *Income Tax Act* (the "ITA"). As of this date, we still have not received any response to our letter.

Consequently, for each of the reasons mentioned in our letter of January 2, 2007, I wish to advise you that, pursuant to the authority granted to the Minister in subsection 149.1(2) of the ITA, and delegated to me, I propose to revoke the registration of the Charity. By virtue of subsection 168(2) of the ITA, the revocation will be effective on the date of publication in the *Canada Gazette* of the following notice:

Notice is hereby given, pursuant to paragraphs 168(1)(b), 168(1)(c), and 168(1)(d), 168(1)(e), of the Income Tax Act, that I propose to revoke the registration of the organization listed below under subsection 149.1(2) and paragraph 149.1(2)(b) of the Income Tax Act and that the revocation of registration is effective on the date of publication of this notice.

Business Number
87021 9318 RR 0001

Name
True Faith Church International
Weston, Ontario

In accordance with subsection 168(2) of the ITA, you can suspend this process (i.e. seek an extended period before revocation) by applying to the Federal Court of

.../2

Appeal or a judge of that court for a stay. The Court will acknowledge your application and provide you with an action number. We require a copy of the Court acknowledgement of your request for a stay to stop the revocation process.

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

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

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

Consequences of a Revocation

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

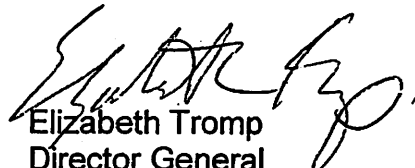
Additionally, by virtue of section 188 of the ITA, the Charity will be required to pay a tax within one year from the date of the Notice of Intention to Revoke the Charity's registration. This revocation tax is calculated on prescribed form T-2046 "*Tax Return Where Registration of a Charity is Revoked*".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

Also, the Charity will no longer qualify as a charity for purposes of subsection 123(1) of the *Excise Tax Act* (the "ETA"), effective on the date of revocation. As a result, it may be subject to obligations and entitlements under the ETA that apply to

organizations other than charities. The relevant ETA provisions are attached in Appendix "B". If you have any questions about your GST/HST obligations and entitlements, please call GST/HST Rulings at 1-800-959-8287.

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

Yours sincerely,



Elizabeth Tromp
Director General
Charities Directorate

Attachments

- Our letter dated January 2, 2007
- Appendix "A", Relevant Provisions of the *Income Tax Act*;
- Appendix "B", Relevant Provisions of the *Excise Tax Act*;
- Form T-2046, *Tax Return Where Registration of a Charity is Revoked*;
- Guide RC-4424, *Completing the Tax Return Where Registration of a Charity is Revoked*.



REGISTERED MAIL

January 2, 2007

True Faith Church International Inc. Canada
415 The Westway Box 12589, Martinway Plaza Post
Weston Ontario
M9R 4C7

Your file / Votre référence
870219318RR0001
Our file / Notre référence
3022092

Attention: Ebenezer Adiyiah

Dear Sir:

Re: Registered Charity Audit – True Faith Church International Inc. Canada

This letter is further to the audit of the books and records of True Faith Church International Inc. Canada (hereinafter, the "Charity") by the Canada Revenue Agency (hereinafter, the "CRA"). The audit relates to the operations of the registered Charity for the period from January 1, 2005 to December 31, 2005.

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

The balance of this letter describes how CRA considered that the Charity contravened the ITA.

Books and Records

Section 230(2) of the ITA requires every registered charity to maintain adequate records and books of account at an address in Canada recorded with the Minister. The purpose of this requirement is to enable the charity to accurately provide CRA with the information required by the ITA as well as enable CRA to verify the accuracy of reported information through the conducting of audits.

In addition to the retention of copies of the donation receipts that section 230(2) explicitly requires, section 230(4) also states "every person required by this section to keep 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 date of the last taxation year to which the records and books relate”.

The audit revealed that the Charity does not have any books and records for the fiscal years ended December 31, 2004 and December 31, 2003. The Charity's representative, Mr. Ebenezer Adiyiah, stated that the books and records for the 2004 and 2003 fiscal years were destroyed in error, which contravenes section 230(4) of the ITA. Section 230(4) was specifically mentioned in the compliance agreement signed by Mr. Adiyiah on March 28, 2006.

The total of the donation receipt copies provided for the fiscal year 2005 equal \$164,129 but the amount of tax-receipted gifts reported in the Charity Information Return (T3010) was \$229,903; a difference of \$65,774. Mr. Adiyiah explained the difference by stating that since the receipts are loose and not stapled together that some receipts were lost/stolen/misplaced. The Charity claim to have written receipts in sequential order from #243 to #308 for the fiscal year 2005; however, there are 19 missing receipts in that series.

The Charity reported total tax-receipted gifts of \$229,903 but bank statements show total deposits of only \$19,531. Mr. Adiyiah stated that not all tax-receipted gifts were cash and of the cash received, all was not deposited, some were kept for expenses or wired to True Faith church in Ghana.

The Charity's books and records and the internal accounting controls supporting them are considered to be inadequate. As a result, the auditor was unable to confirm revenue and expenditures as recorded, the accounting of receipts and the charitable nature of expenditures as reported in the T3010.

It was found that record retention in support of bank transactions and expenditures was incomplete. The Charity does not have receipts to support its total expenditures of \$224,772.

A charity is not meeting its requirement to maintain adequate books and records if it fails to exercise due care with respect to ensuring the accuracy thereof.

The Charity must prepare and keep on file a list of official donation receipts issued which reconcile to the T3010, the financial statements and the bank deposit slips

Official Donation Receipts

The ITA provides various requirements in respect of official donation receipts issued by registered charities. These requirements include that every official receipt issued by a registered organization shall contain a statement that it is an official receipt for income tax purposes and shall show clearly in such a manner that it cannot readily be altered.

Regulation 3501 requires:

- where the donation is a gift of property other than cash
 - (i) the day on which the donation was received,
 - (ii) a brief description of the property, and
 - (iii) the name and address of the appraiser of the property if an appraisal is done in accordance with Regulation 3501(1)(e)
- the name and address of the donor including, in the case of an individual, his first name and initial in accordance with Regulation 3501(1)(g),
- the place or locality where the receipt was issued in accordance with Regulation 3501(1)(b),
- the amount that is
 - (i) the amount of a cash donation, or
 - (ii) where the donation is a gift of property other than cash, the amount that is the fair market value of the property at the time that the gift was made in accordance with Regulation 3510(1)(h).

The audit revealed that the Charity has issued receipts for gifts of property other than cash and for which a fair market value of the gifts has not been established. Regulation 3501 of the ITA requires that where the donation is a gift of property other than cash, the amount that represents the fair market value of the property at the time the gift was made, preferably by way of independent appraisal for gifts exceeding \$1,000, must be included on the receipt. Furthermore such receipts must show clearly

- the date on which the donation was received,
- a brief description of the property, and
- the name and address of the appraiser of the property if an appraisal was performed.

The audit revealed that the above noted requirements were contravened. Specifically, it was found that official receipts did not contain the donor's address, a description of property donated, or a statement that it was an official receipt for income tax purposes.

Control Over Official Donation Receipts

The audit revealed that there is little or no control over the storage and issuance of official donation receipts. In particular, the deficiencies noted were as follows.

- Donation receipts were issued out of sequence,
- Duplicate copies of all receipts were not kept on file for all issued receipts in accordance with subsection 230(2) of the ITA, during the period reviewed, approximately 19 or more receipts were missing,
- Donation receipts were pre-signed before being issued.

Mr. Adiyiah stated that donation receipts #1-17 were issued in 2003 and #18-41 were issued in 2004 and the first receipt issued for 2005 was #243. However, in 2004, a donor claimed receipt #54 for \$5,250 and also in 2004, another donor claimed receipt #132 for \$27,000. When asked about those receipts, Mr. Adiyiah stated that those receipts were not issued by him and that he signs all blank receipts when received from the printer therefore someone must have taken a blank receipt (with his signature) and wrote those receipts. Also, in 2004, a donor claimed receipt #66 for \$3,200. For 2004 fiscal year, receipt #29 received from the Charity was issued to Mr. Adiyiah for \$3,980; however, receipt #29 received from Sudbury Tax Office was issued in 2003 to Mr. Appiah for \$5,250; Mr. Adiyiah was unable to explain how two receipts with the same number was issued in different years, to different donors for differing amounts.

Mr. Adiyiah stated that in their previous location at [REDACTED] they were renting a portion of a church and the premises was not secure and lack of commitment of church members to ensure security resulted in receipts being lost/stolen/misplaced.

Charities are expected to guard against the unauthorized use or possible alteration of official donation receipts. The Charity must control the use of its receipts and, in the event of lost or stolen receipts, should notify the Department. Under such circumstances, it may be necessary to cancel the Charity's current registration number and issue a replacement number.

Under paragraph 168(1)(d) of the ITA, the Minister may, by registered mail, give notice to the registered charity that he proposes to revoke its registration if it issues a receipt otherwise than in accordance with the ITA and the Regulations

Devotion of Resources

Activities Outside Canada and Gifts to Non-Qualified Donees

The ITA 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 ITA or it can carry on its own activities. Qualified donees include Canadian registered charities, certain universities outside Canada, the United Nations and its agencies and a few foreign charities.

In order to view an organization as carrying out its own charitable activities, it is necessary that an employee or agent of the organization, or through its participation carry on the charitable activities by the organization in a joint venture or partnership like enterprise. Where a registered charity chooses to administer one or more of its activities through an appointed agent or representative, it must be able to substantiate by documentary evidence that it has arranged for the conduct of certain specific activities on its behalf and also be able to demonstrate to the CRA's satisfaction that it at all times maintains control and full accountability over the use of its monies transferred to the agent. In making gifts to qualified donees or 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.

Our guide RC4106 "*Registered Charities: Operating Outside Canada*", which is available on our website, sets out the 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.

The audit has raised serious concerns with respect to the Charity's foreign activities and gifts to non-qualified donees. According to the audit, the Charity has not demonstrated adequate direction and control over funds sent to True Faith Church in Ghana since no agency agreement exist and no documentation was provided to demonstrate that the Charity provided direction on use of funds sent overseas.

Also, your records indicate that \$1,000 was given to Samson Boateng, \$500 to Elizabeth Adomako, \$350 to Nana Yaa Ampmsah and \$2,960 to "Sammy"; all amounts classified as donations and included as charitable program expenditures on the T3010. However, no documentation or explanations was provided as to the identity of the payees and the purpose of the funds paid to them.

If a charity chooses to administer its work through an agent, the following conditions must be met.

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

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 CRA.

For purposes of the ITA, 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 nullified the purpose and intent of the ITA.

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

Under subsection 149.1(2) of the ITA, the Minister may revoke the registration of the Charity, because it has failed as described in paragraph 168(1)(b) of the ITA to comply with the requirements of the ITA when it transferred funds other than by way of gifts made to qualified donees.

Incorrectly filed T3010

The 2005, the T3010 as filed reported no tax-receipted non-cash gifts in the year. However, Mr. Adiyiah stated that approximately 80-85% of tax-receipted amounts were non-cash.

Also, the tax receipted gifts reported for 2003 was understated by \$20,450 (receipts # 29 & 36) and tax receipted gifts reported for 2004 was understated by \$32,250 (receipts #54 & 132).

Under subsection 168(1)(e) the Charity's registration may be revoked if it fails to comply with or contravenes any of sections 230 to 231.5 of the ITA.

Conclusion

For each of the reasons listed above, it appears that there are grounds to revoke the Charity's status as a registered charity. The consequences to a registered charity of losing its registration include:

- 1) the loss of its tax-exempt status as a registered charity, which means that the Charity would become a taxable entity under Part I of the ITA, provided it does not qualify as a non-profit organization as described in paragraph 149(1)(l) of the ITA;
- 2) the loss of the right to issue official donation receipts for income tax purposes which means that gifts made to the Charity would not be allowable as a tax credit to individual donors as provided at subsection 118.1(3) of the ITA or as a deduction allowable to corporate donors under paragraph 110.1(1)(a) of the ITA;
- 3) the possibility of a tax payable under Part V, section 188 of the ITA; and
- 4) the loss of the Charity's status as a charity for purposes of subsection 123(1) of the *Excise Tax ITA* (hereinafter, the ETA), which means that

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

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

If you do not agree with the facts outlined above, or if you wish to present reasons why the CRA should not revoke the registration of True Faith Church International Inc. Canada in accordance with subsection 168(2) of the ITA, we invite you to submit your representations, **within 30 days from the date of this letter**. Subsequent to that date, the Director General of the Charities Directorate will decide whether or not to proceed with the issuance of a Notice of Intention to Revoke the registration of the Charity in the manner described in subsection 168(1) and (2) of the ITA.

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

Should you have any questions regarding these matters, I may be contacted at 416-410-5307, or write to address below.

Yours truly,

Nadia Murray
Verification and Enforcement Division
Telephone: (416) 410-5307
Fax: (416) 954-6015
Address: 1 Front St West
Toronto ON M5J 2X6

Toll free: 1-800-959-8281 (Individual)
1-800-959-5525 (Business)
Internet: www.ccra-adrc.gc.ca

Enclosure

- Appendix "A", relevant provisions of the *Income Tax Act*
- Appendix "B", relevant portions of the *Excise Tax Act*