



REGISTERED MAIL

Ms. Milda Romanoff
Director
Canadian Community Support
Foundation
Unit 16
29 Connell Court
Etobicoke ON N8Z 5T7

BN: 837585041 RR0001
File#: 3050409

JUN 26 2018

**Subject: Notice of intention to revoke
Canadian Community Support Foundation**

Dear Ms. Romanoff:

We are writing following our letter dated August 18, 2016 (copy enclosed), in which the Canadian Community Support Foundation (the Organization) was invited to respond to the findings of the audit conducted by the Canada Revenue Agency (CRA); and explain why the registration of the Organization should not be revoked in accordance with subsection 168(1) of the *Income Tax Act* (the Act).

As of this date, we still have not received any response to our letter.

Conclusion

The audit by the CRA found that the Organization is not complying with the requirements set out in the Act. In particular, it was found that the Organization failed to maintain adequate books and records, conferred unacceptable private benefits, and failed to file an information return as and when required by the Act. 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 for charitable registration and should be revoked in the manner described in subsection 168(1) of the Act.

For each of the reasons mentioned in our letter dated August 18, 2016, pursuant to subsection 168(1) and 149.1 (2) of the Act, we 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)(d), and 168(1)(e) of the Income Tax Act, that I propose to revoke the registration of the charity listed below and that by virtue of paragraph 168(2)(b) thereof, the revocation of registration is effective on the date of publication of this notice in the Canada Gazette.

Business number	Name
837585041RR0001	Canadian Community Support Foundation Etobicoke ON

Should the Organization choose 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, with 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 **90 days** from the date this letter was mailed. The Organization's registration will be revoked on the date of publication, unless the CRA receives an objection to this notice of intention to revoke within this timeframe.

A copy of the relevant provisions of the Act concerning revocation of registration, including appeals from a notice of intention 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 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 Form T2046, *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. The relevant provisions of the Act concerning the tax applicable to revoked charities can also be found in Appendix A. Form T2046 and the related Guide RC4424, *Completing the Tax Return Where Registration of a Charity is Revoked*, are available on our website at canada.ca/charities-giving;
- c) the Organization will no longer qualify as a charity for purposes of subsection 123(1) of the *Excise Tax Act*. As a result, the Organization may be subject to obligations and entitlements under the *Excise Tax Act* 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).

Finally, we advise that subsection 150(1) of the *Income Tax 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,



Tony Manconi
Director General
Charities Directorate

Attachments:

- CRA letter dated August 18, 2016
- Appendix A, Relevant provisions of the Act



REGISTERED MAIL

CANADIAN COMMUNITY
SUPPORT FOUNDATION
29 Connell Court, Unit #16
Etobicoke, ON N8Z 5T7

BN 837585041 RR0001
File # 3050409

August 18, 2016

Subject: **Audit of Canadian Community Support Foundation**

Dear Sir / Madam:

This letter is further to the audit of the books and records of the Canadian Community Support Foundation (the Organization) conducted by the Canada Revenue Agency (CRA). The audit related to the operations of the Organization for the reporting periods ending December 31, 2013, and December 31, 2014.

The results of this audit indicate that the Charity appears to be in contravention of certain provisions of the *Income Tax Act* (the Act) and/or its Regulations. In order for a registered charity to retain its registration, it is required to comply with the provisions of the Act applicable to registered charitable organizations.

AREAS OF NON-COMPLIANCE:		
	Issue	Reference
1.	Failure to maintain adequate books and records	149.1(2), 169(1)(b), 168(1)(e), 230(2)
2.	Conferring an unacceptable or undue private benefit	149.1(1), 168(1)(b), 168(1)(d)

Canada

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.

Identified Areas of Non-Compliance:

1. Failure to maintain adequate books and records:

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 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 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 revoked¹;
- 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 thereto²; and

¹ *The Canadian Committee for the Tel Aviv Foundation vs. Her Majesty the Queen*, 2002 FCA 72 (FCA)

² *Supra*, footnote 3; *The Lord's Evangelical Church of Deliverance and Prayer of Toronto v. Canada*, (2004) FCA 397

- 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 status³.

The audit revealed that reported expenditures were inadequately supported by suitable original expense vouchers. Documentation in support of the reported amounts did not allow for verification of existence, completeness, accuracy, or reasonability as incurred in furtherance of charitable purposes. Nor did documentation provide sufficient information to determine an allocation of expense between charitable programs and management / administrative duties.

Audit attempts to verify the accuracy of the stated revenue, along with matching of donations of gifts in kind (used clothing), was unsuccessful due to incomplete documentation in the books and records. The information that was provided did not include summary listings or reconciliations of goods deposited to clothing donation bins which carried the identifying logo and registration number of the Organization. The books and records that were provided did not include collection count sheets or related supporting records of total goods collected on behalf of the Organization by the owner of the collection bins ([REDACTED] - operating as [REDACTED]).

In the absence of sufficient documentation to match collected donations of gifts in kind to net proceeds realized upon disposition, the revenue reported as having been received from [REDACTED] (\$ 21,000.00 in the period ending December 31, 2014, and \$ 11,400.00 in the period ending December 31, 2013, respectively) could not be verified as accurate or complete.

Additionally, bank statements provided for the purposes of the audit review were incomplete (missing information relating to reporting period ending December 31, 2013), further preventing accurate verification of reported revenues via bank reconciliation.

It is the responsibility of the Organization to obtain and to maintain adequate documentary evidence to clearly demonstrate its financial position. By failing to maintain and retain complete documentation that would allow for the verification of assets, liabilities, revenue and expenditures, the Organization cannot show that it meets the requirement of paragraph 149.1(1)(a) of the Act.

Our review of the Organization's books and records indicates that they are not acceptable under section 230 of the Act. Under subsection 149.1(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.

³ (*College Rabbiniqne de Montreal Oir Hachaim D'Tash v. Canada (Minister of the Customs and Revenue Agency*, (2004) FCA 101; *ITA* section 168(1))

2. Conferring an unacceptable or undue private benefit

A registered charity must be established and operated for the purpose of delivering a charitable benefit to the public or a sufficient segment thereof. The public benefit requirement prevents a charity from conferring an unacceptable private benefit in the course of pursuing charitable purposes.

Private benefit means a benefit provided to a person or organization that is not a charitable beneficiary, or a benefit to a charitable beneficiary that exceeds the bounds of charity. Private benefits can occur as a charity carries out activities that advance its charitable purpose and engages in related administrative/management practices. They can be conferred on a charity's staff, directors/trustees or members, or on third parties, and can take almost any form. Private benefits conferred on persons who do not deal at arm's length with the organization are subject to particular scrutiny. Where it can be fairly considered that the eligibility of a recipient relates solely to the relationship of the recipient to the organization, any resulting benefit will not be acceptable.

Providing a private benefit is unacceptable unless it is *incidental* to accomplishing a charitable purpose. Ordinarily, a private benefit will be incidental where it is:

- (i) Necessary - Necessary means legitimately and justifiably resulting from:
- a. an action that directly contributes toward achieving a charitable purpose; or
 - b. a required step in an action taken only to achieve a charitable purpose; or
 - c. a required consequence or by-product of an action taken only to achieve a charitable purpose.

and

- (ii) Reasonable - Reasonable means:
- a. related to the need and no more than is necessary to achieve the purpose; and
 - b. fair and rational.

and

- (iii) Not disproportionate to the public benefit achieved – Meaning that the public benefit must be predominant, being larger and more significant than the private benefit.

Examples of unacceptable private benefit might include:

- paying for expenses, or providing advantages, that are not justified or necessary to perform required duties;
- using the services, materials, facilities or businesses of staff, directors/trustees, or persons/entities who do not deal at arm's length with staff or directors/trustees, without fair process and/or justification; or
- permitting unjustified use of resources belonging to the organization.

It is our view that the following activities/expenditures confer an unacceptable private benefit:

- An account receivable amount (\$3,000.00) recorded in the books and records during the fiscal period ending December 31, 2014, related to a payment issued to [REDACTED] on February 4, 2014. The transaction was not supported by a written agreement and no terms of repayment were evident.
- The Organization recorded expense transactions during the fiscal period ending December 31, 2014, related to the payment of license fees applicable to the clothing donation bins placed in specific municipalities. The clothing donation bins are the property of [REDACTED] and are used in its commercial operations. As such, the payments represent application of charitable resources for the benefit of a non-qualified donee. The specific payments observed are summarized as follows:
 - Drop Box License Fee – City of Toronto \$ 3,259.20 (May 14, 2014)
 - Drop Box License Fee – City of Vaughan \$ 75.00 (May 6, 2014)
 - Drop Box License Fee – unnamed municipality \$149.00 (November 20, 2014) (the payment entered in the Organization's books and records did not correspond to a cancelled cheque or source voucher identifying the specific municipality)
- Several payments were identified via cancelled cheques as having been provided to 2230293 Ontario Inc. during the fiscal period ending December 31, 2013. They are summarized as follows:

<u>Chq #</u>	<u>Date</u>	<u>Amount</u>	<u>Memo Field Notation</u>
1	Nov 5	2,000.00	"Durham Hospice Fundraiser"
2	Nov 4	4,000.00	"Roger's House"
9	Dec 17	1,000.00	"Orangeville OSPCA"
10	Dec 17	1,000.00	"Orangeville Food Bank"
11	Dec 18	1,000.00	"[REDACTED]"
12	Dec 18	500.00	"Children's Miracle"
13	Dec 18	500.00	"Red Cross"
14	Dec 18	1,000.00	"Big Brothers & Sisters of Hastings"
15	Dec 18	1,000.00	"[REDACTED]"
16	Dec 13	1,000.00	"Ottawa Mission"
18	Dec 28	9,500.00	"[REDACTED]"
19	Dec 29	6,700.00	(blank)
		\$ 29,200.00	

The transactions described above identify several potentially eligible qualified donees as intended recipients of the funds, via notations made in the memo field of the cancelled cheques. However, further review indicates that the payments were issued directly to [REDACTED]. As such, they represent a devotion of resources to a

non-qualified donee. Further, the total value of the above listed transactions exceeds the amount of total revenue (\$11,400.00) reported by the Organization during the fiscal period.

Because the payments described above represent transfers to a non-qualified donee, and in accordance with Summary Policy CSP-N01, "under the Act, a registered charity that transfers resources to a non-qualified donee could have its registration revoked."

Furthermore, because the Organization failed to devote all of its resources to its own charitable activities or by way of gifts to qualified donees, it has failed to meet the definitional requirement under subsection 149.1(1) of the Act.

The Minister may revoke the registration of the registered charity in the manner 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.

3. Failure to file an Information Return as and when required by the Act and / or its Regulations:

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 an Information Return with the applicable schedules. It is the responsibility of the Organization to ensure that the information that is provided in its Information Return, 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.

Our review revealed that the Organization improperly completed its T3010 Information Returns (T3010) as follows:

- The T3010s filed for the fiscal periods ending December 31, 2013, and December 31, 2014, did not include a completed form T1235 - "Directors / Trustees and Like Officials" as required.
- Omissions of required information applicable to form T1236 "Qualified Donees Worksheet" were identified in the T3010 for the fiscal period ending December 31, 2014. This included details of registration numbers, addresses and identification of gifts in kind provided (including goods distributed to The Scott Mission - 107963613RR0001).

- The T3010 filed for the fiscal period ending December 31, 2013, did not include accompanying financial statements (i.e. balance sheet, income statement) in support of the Organization's stated operations and financial position.
- The amounts stated on Lines 5000 and 5010 of the T3010 for the fiscal periods ending December 31, 2013, and December 31, 2014, did not match to the total expenditures stated on Line 4950. The Organization demonstrated an improper or unsubstantiated allocation methodology of expenditures related to charitable programs, as well as expenditures related to management and administration.

Additionally, the Organization has not filed its T3010s within six months from the end of its fiscal periods as follows:

<u>Fiscal Year End</u>	<u>Date Due</u>	<u>Date Received</u>
2014-12-31	2015-06-30	2016-02-19
2013-12-31	2014-06-30	2014-07-04

The Minister may revoke the registration of the registered charity in the manner described at paragraph 168(1)(c) of the Act because the registered charity has failed to file an information return as and when required under the Act or a Regulation. For this reason, it appears to us that there are grounds for revocation of the charitable status of the Organization.

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. My team leader, Gary Huenemoeder, may also be reached at [REDACTED].

Yours sincerely,

[REDACTED]

Ted Dubien
Audit Division
East Central Ontario – Kingston TSO

Telephone: [REDACTED]
Facsimile: (613) 541-7161
Address: 102-1475 John Counter Blvd.,
Kingston ON K7M 0E6

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;
- (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; or
- (c) makes a disbursement by way of a gift, other than a gift made
 - (i) in the course of charitable activities carried on by it, or
 - (ii) to a donee that is a qualified donee at the time of the gift.

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;
- (b.1) makes a disbursement by way of a gift, other than a gift made
 - (i) in the course of charitable activities carried on by it, or
 - (ii) to a donee that is a qualified donee at the time of the gift;
- (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 149.1(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;
- (b.1) makes a disbursement by way of a gift, other than a gift made
 - (i) in the course of charitable activities carried on by it, or
 - (ii) to a donee that is a qualified donee at the time of the gift;
- (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

The Minister may, by registered mail, give notice to a person described in any of paragraphs (a) to (c) of the definition "qualified donee" in subsection 149.1(1) that the Minister proposes to revoke its registration if the person

- (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;
- (c) in the case of a registered charity or registered Canadian amateur athletic association, fails to file an information return as and when required under this Act or a regulation;
- (d) issues a receipt for a gift 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 the granting of which was expressly or implicitly conditional on the association making a gift to another person, club, society or association.

168(2) Revocation of Registration

Where the Minister gives notice under subsection 168(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,

(d) [Repealed, 2011, c. 24, s. 54]

(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,

(g) refuses to accept for registration for the purposes of this Act any retirement income fund,

(h) refuses to accept for registration for the purposes of this Act any pooled pension plan or gives notice under subsection 147.5(24) to the administrator of a pooled registered pension plan that the Minister proposes to revoke its registration, or

(i) refuses to accept an amendment to a pooled registered pension plan,

the person 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), the administrator of the plan or an employer who participates in the plan, in a case described in paragraph (f) or (f.1), or the administrator of the plan in a case described in paragraph (h) or (i), 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),

(b) [Repealed, 2011, c. 24, s. 55]

(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),

(c.2) the mailing of notice to the administrator of the pooled registered pension plan under subsection 147.5(24), or

(d) the time the decision of the Minister to refuse the application for acceptance of the amendment to the registered pension plan or pooled 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

If 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, or solidarily, 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”

« *montant de l'actif net* »

“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”

« *valeur nette* »

“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.