



OCT 19 2016

Mr. Nicholas Wright
Director
Geopoliticalmonitor Institute
5700-100 King Street West
Toronto ON M5X 1C7

BN: 80925485RR0001
File #: 3044297

**Subject: Notice of Intention to Revoke
Geopoliticalmonitor Institute**

Dear Mr. Wright:

We are writing further to our letter dated February 29, 2016 (copy enclosed), in which you were invited to submit representations as to why the registration of the Geopoliticalmonitor Institute (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 March 30, 2016. 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 audit by the Canada Revenue Agency (CRA) has revealed that the Organization is not complying with the requirements set out in the *Income Tax Act*. In particular, it was found that the Organization failed to devote resources to charitable activities and failed to maintain adequate books and records. For all of these reasons, and for each reason alone, it is the position of the CRA that the Organization no longer meets the requirements necessary for charitable registration and should be revoked in the manner described in subsection 168(1) of the Act.

Consequently, for each of the reasons mentioned in our letter dated February 29, 2016, we wish to advise you that, 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)(c), 168(1)(d), 168(1)(e), and subsection 149.1(2) 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
80925485RR0001	Geopoliticalmonitor Institute 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 **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 intent to revoke registration can be found in Appendix B, 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 prescribed 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 B. Form T2046 and the related Guide RC4424, *Completing the Tax Return Where Registration of a Charity is Revoked*, are available on our Web site 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*. 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 wish to 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 February 29, 2016
- Appendix A, CRA's position on issues of non-compliance
- Appendix B, Relevant provisions of the Act

cc: Ms. Mielle Chandler
Director
Geopoliticalmonitor Institute





REGISTERED MAIL

Mr. Nicholas Wright
Director
Geopoliticalmonitor Institute
5700-100 King Street West
Toronto ON M5X 1C7

BN: 80925485RR0001
File #: 3044297

February 29, 2016

Subject: Audit of Geopoliticalmonitor Institute

Dear Mr. Wright:

This letter is further to the audit of the books and records of the Geopoliticalmonitor Institute (the Organization) conducted by the Canada Revenue Agency (CRA). The audit related to the operations of the Organization for the period from January 1, 2013, to December 31, 2014.

During the course of the audit, the CRA identified specific areas of non-compliance with the provisions of the *Income Tax Act* and/or its *Regulations* in the following areas.

AREAS OF NON-COMPLIANCE		
	Issue	Reference
1.	Failure to devote resources to charitable activities	149.1(2), 168(1)(b)
2.	Failure to maintain adequate books and records	149.1(2), 230(2), 168(1)(b) and (e)
3.	Errors/omissions on Form T3010, <i>Registered Charity Information Return</i>	149.1(14), 168(1)(c)

The purpose of this letter is to describe the areas of non-compliance identified by the CRA 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

Failure to devote resources to charitable activities

Subsection 149.1(1) of the Act describes a charitable organization, in part, as an organization, whether or not incorporated, all the resources of which are devoted to charitable activities carried on by the organization itself. What constitutes a charitable activity is not defined in the Act, and as a result, we consider common law to determine what is charitable.

Advancing education

To advance education in the charitable sense, the information or training presented must be useful and have educational value. The information or training provided must also meet the following criteria:¹

- it must be provided in a structured manner and for a genuinely educational purpose, that is to advance the knowledge or abilities of the recipients;
- there must be a teaching or learning component; and
- there must be a legitimate, targeted attempt to educate others (whether through formal or informal instruction, training, plans of self-study, or otherwise).

The courts have clearly stated that simply providing an opportunity for people to educate themselves, such as by making materials available with which this might be accomplished, but need not be, is not enough². Merely providing information lacks the structure, as well as the necessary teaching and learning elements required to be considered advancing education in the charitable sense.

The audit revealed that the Organization was not carrying out charitable activities through the advancement of education. The Organization reported under Ongoing Programs of its T3010: "Created, distributed, and held seminars..." and its response to our letter stated that it "facilitated discussion and learning in furtherance of its objects". However, it failed to submit the information requested in our letter of December 1, 2015, that would support these statements such as a schedule of events, itineraries, specific content, sample materials, list of attendees, and fees charged, if any.

We note that the Organization's documentation included a printout of a [REDACTED] thread, in which [REDACTED], posted an article he had written. Some discussion followed; however, [REDACTED] did not participate, nor was anyone who participated identifiable as a member of the Organization. Given that [REDACTED] is merely a social media website, rather than an academic forum, and that the

¹ *Vancouver Society of Immigrant and Visible Minority Women v MNR*, [1999] 1 S.C.R. 10, at para. 169 and 171.

² *Ibid*, para. 171.

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Organization did not provide any structure or direction for the discussion, it is our view that this was a case of simply disseminating information rather than actively advancing education.

Research

Research in the charitable sense means an enquiry that is structured in such a way that it is likely that new knowledge will be discovered or existing knowledge improved. To be considered charitable at common law, the research that a charity conducts as a charitable activity must³:

- be a way to achieve or further the charity's charitable purpose;
- be based on a research subject that has educational value and a research proposal that is capable of being attained through research;
- be undertaken in such a way that it might reasonably lead to the discovery or improvement of knowledge;
- be conducted primarily for the public benefit and not for self-interest or private commercial consumption; and
- be disseminated and made publicly available to others who might want to access the information.

Research in the charitable sense has therefore been defined as the systemic investigation into, and study of, materials and sources on any subject that has educational value in order to discover or improve knowledge. If an activity does not fulfill all the requirements listed above, it is unlikely to be research in the charitable sense.

The audit revealed that the Organization was not carrying out charitable activities through research. The Organization stated that it carried out research and analysis, published articles, and facilitated interactive learning on public policy, international relations, and matters of geopolitical significance. It further clarified that it researched, wrote, edited, and/or distributed 127 freely available articles. Examples of these articles were provided. However, a review of these articles revealed them to be opinion pieces and news articles, rather than formal research reports. While the authors of these articles may be educated in the topics they are writing about, that does not make anything they write automatically educational or "research" material in the charitable sense of the term as described above. We have been provided with no evidence that any formal research was carried out, or that any knowledge was discovered or improved. Therefore, the Organization has not sufficiently demonstrated that it was carrying out research in the charitable sense.

Further, the Act states that a registered charity may only use its resources (funds, volunteers, employees and/or property) in two ways. Firstly, a registered charity may

³ CPS-029, *Research as a Charitable Activity*, <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/rsrch-eng.html>.

provide resources to "qualified donees," a term that is defined in the Act at subsection 149.1(1). Secondly, a registered charity may only use resources on activities where it maintains full direction and control over their use, and on activities for which it can be held fully accountable. It is the onus of the Organization to provide credible evidence that its activities are, in fact and law, being carried out by the Organization itself.

The audit revealed that the Organization did not carry out its own activities. The Organization stated in its response that Geopoliticalmonitor Intelligence Corp. (GPM) owned the "Geopoliticalmonitor" trademark as well as the website platform for geopoliticalmonitor.com and that GPM allowed the Organization to post its articles on the website at no charge. The response further stated that GPM and the Organization were separate corporations, had separate bank accounts, had different boards of directors, and carried on different activities. However, two of the three board members of the Organization were also board members of GPM; therefore, the boards of directors were not entirely different.

In addition, the response failed to elaborate on *how* the two entities carried on different activities independently of each other. The response contained no evidence of the difference between the activities of the two organizations. For instance, it is unclear how it was determined which articles the Organization was responsible for and which GPM was responsible for. There appeared to be no material difference between the content of the articles. In addition, the articles claimed as the work of the Organization were written by the same authors that wrote for GPM. In fact, the only distinguishing factor between the two activities seems to be that the Organization paid for an apparently random selection of the articles. Therefore, it is our view that there is no evidence to support that the Organization was carrying out its own activities, separately and distinctly from GPM.

Under subsection 149.1(2) of the Act, the Minister may revoke the registration of the charitable organization 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 this Act for its registration.

Failure to maintain adequate books and records

Subsection 230(2) of the Act requires that every registered charity 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.

This provision is necessary to enable a charity to accurately provide the CRA with the information required by the Act, as well as, to enable the CRA to verify the accuracy of reported information through an audit and to determine whether there are any grounds for revocation of the charity's registration.

The audit revealed that the Organization did not maintain adequate books and records. In our letter of December 1, 2015, we requested that the Organization provide, with respect to its seminars: schedule of events, itineraries, specific content, sample materials, list of attendees, fees charged, if any, for the 2014 fiscal period. The Organization failed to provide this information. As such, it is our position that it has failed to maintain adequate books and records in accordance with subsection 230(2).

Under subsection 149.1(2) of the Act, the Minister may revoke the registration of the charitable organization in the manner as described at paragraph 168(1)(b) and (e) of the Act because the registered charity has failed to comply with the requirements of this Act for its registration and has failed to comply with or contravened any of sections 230 to 231.5.

Errors/omissions on Form T3010, *Registered Charity Information Return*

The Organization did not accurately complete the Form T1235, *Directors/Trustees and Like Officials Worksheet*, in that it did not provide the "Home address- street number and name, City, Prov./Terr., or Postal Code" of one of the directors. We acknowledge receipt of the missing information during the course of the audit.

Under subsection 149.1(14) of the Act, the Minister may revoke the registration of the charitable organization in the manner as described at paragraph 168(1)(c) of the Act because the registered charity has failed to comply with the requirements of this Act for its registration failed to file an information return as and when required under this Act or a regulation.

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:

- resolving these issues through the implementation of a Compliance Agreement;
- the application of penalties and/or suspensions provided for in sections 188.1 and/or 188.2 of the Act; or
- giving notice of its intention to revoke the registration of the Organization by issuing a notice of intention to revoke 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 me at the number indicated below.

Yours sincerely,


Elizabeth Glover
Office Audit Officer
Compliance Division
Charities Directorate
Canada Revenue Agency
Place de Ville, Tower A
320 Queen Street, 2nd floor
Ottawa ON K1A 0L5
613-670-9495

Cc:
Ms. Mielle Chandler
Director
Geopoliticalmonitor Institute

GEOPOLITICALMONITOR INSTITUTE

Comments on Representations

The audit conducted by the Canada Revenue Agency (CRA) identified that the Geopoliticalmonitor Institute (the Organization):

- Failed to devote resources to charitable activities by failing to advance education, including through research, and failing to carry out its own activities; and
- Failed to maintain adequate books and records.

We have reviewed the Organization's submission dated March 30, 2016, and we maintain our position that the non-compliance issues identified during our audit represent a serious breach of the requirements of the *Income Tax Act*. As outlined below, we remain concerned about the non-compliance identified during the audit. The Organization has failed to provide additional documentation or reasonable explanations to address many of the areas of non-compliance identified. As such, it remains our opinion that the Organization's registration should be revoked.

The basis for our position is described in further detail below.

1. Failure to devote resources to charitable activities

Advancing education

Our previous letter stated that the Organization had failed to provide documentation such as a schedule of events, itineraries, specific content, sample materials, list of attendees, fees charged, if any, relating to its seminars and workshops for the 2014 fiscal period as requested in our letter. Due to this lack of information, we concluded that the Organization had failed to support the "Ongoing Programs" section in its T3010, and the statement in its letter dated January 7, 2016, that it "facilitated discussion and learning in furtherance of the charity's objects".

Our letter also referenced the Organization's activities with respect to social media, and that since this activity lacked sufficient structure and direction, it did not qualify as advancing education, but rather dissemination of information.

The Organization's response stated that it had held in-person events where [REDACTED] had spoken and answered questions from participants relating to trends and developments in geopolitics and international relations. It indicated no fees were charged and provided a listing of six such events, five which took place in 2012 and one in 2013. There are no listings for 2014.

However, the response did not provide sufficient detail such as the specific content discussed, the itineraries of these events, a list of attendees, or sample materials.

As such, the Organization has not alleviated our concerns in this matter as we are unable to determine whether its seminars and workshops qualified as advancing education in the charitable sense.

The response also indicated that starting in April 2016 the Organization intends to hold additional in-person educational seminars and to continue educating in forums where the general public can be readily engaged, including social media. It also stated it would improve its outreach to provide additional structure and direction.

However, the response did not include details as to how these activities would be carried out, or how the Organization would improve structure and direction. It is insufficient for the Organization to simply express its aspirations¹; it must provide detailed and credible plans for these activities. Without such information, we are unable to determine whether the Organization would adjust its programs significantly enough to alleviate our concerns as to their ability to advance education in the charitable sense, particularly given its reaffirmation that it intends to use social media for this purpose. As already stated in our previous letter, this would constitute dissemination of information and not advancing education.

Research

Our previous letter indicated that the Organization was not carrying out charitable activities through research. It stated that we had been provided with no evidence that any formal research was carried out, or that any knowledge was discovered or improved and that the Organization had not sufficiently demonstrated that it was carrying out research in the charitable sense.

The Organization's response indicated that research on public policy, international relations and matters of geopolitical significance have educational value because they are matters of political significance which are obtained through primary and secondary research as they relate to observable human behaviour.

It also stated that the research is carried out by reviewing government reports, third party think tank/NGO reports, media reports, quotes from individual experts, graphs, government statistics, academic articles and other materials.

It further indicated that the research is made primarily for the public benefit of increasing understanding to promote an informed citizenry for the functioning of our democracy, and that the information is made freely and publicly available.

¹ *Sagkeeng Memorial Arena Inc. v. Canada (National Revenue)*, [2012] F.C.A. 171, at paras. 8 and 9.

The response argued that research on a moral philosophy is just as valid as hard science; that just because an article addresses current events does not mean that it is not research, and that it is irrelevant whether research is formal or informal.

With respect to the above, we would agree that the topics outlined by the Organization can have educational value and be valid research topics, if the related research is carried out in such a way as to lead to the discovery or improvement of knowledge. Our concern remains that the Organization has not demonstrated that the articles it publishes are anything more than news articles espousing the opinions of the authors.

The Organization has claimed that government reports, third party think tank/NGO reports, media reports, quotes from individual experts, graphs, government statistics, academic articles and other materials were consulted when writing these articles. However, there is no evidence that this was actually the case as none of the articles include references to these documents. Indeed, there is nothing to distinguish the Organization's articles from any other that may appear on a recognized news source, such as the CBC or the National Post.

While the articles' opinions may be informed given the educational background and general interests of the authors, we reiterate that it does not mean anything written by these individuals can be classified as research. It is our view that the content put forth by the Organization is essentially news articles and opinion columns. We advise that the courts have determined that the provision of news is not charitable at law under the advancement of education.²

Ultimately, the goal of research in the charitable sense is to communicate information of educational value to the general public in order to improve knowledge. Research does not include the accumulation of information in an unstructured manner³ or in an unsystematic way⁴. In order for these articles to be recognizably research, one would expect to see a research proposal being put forth, a description of a methodology, references, documentation, and clear support for the conclusions that are ultimately reached, other than the assertions of the author that they are true. Otherwise, it is unlikely that the average reader would identify the material as research in the academic sense as opposed to opinions that anyone may put forth and distribute on the internet.

² *News to You Canada v MNR*, [2011] 5 CTC 176, 2011 DTC 5105 at para 17.

³ *Vancouver Society of Immigrant and Visible Minority Women v MNR*, [1999] 1 S.C.R. 10 at para 169.

⁴ *Human Life International in Canada Inc. v MNR*, [1998] FCJ no 365, 3 FC 202 (CA)

at para 10.

Carrying out own activities

Our previous letter discussed how the Organization was not carrying out its own activities separately and distinctly from Geopoliticalmonitor Intelligence Corp. (GPM).

The Organization's response focussed on the comment in our letter stating that the two boards were not entirely different. It also asked for a legal reference in support of our position that two separate boards are required and indicated willingness to adjust the board structure.

Our response to this is that the legal requirement is for a registered charity to carry out its own activities. Essentially, there is little that verifiably distinguishes the two entities and the similarity between the two boards is one fact among many that support our position that the Organization is not carrying out its own activities.

The response also indicated that the two organizations were structured differently, that discrete meetings and discussions were held for each entity, and that the articles written and distributed by the Organization are free, while GPM's articles are available only to paid subscribers.

It is unclear what the Organization means by stating the organizations are structured differently; no rationale was provided to support this statement.

Further, our request for documents included copies of all meeting minutes for fiscal periods 2013 and 2014. The documentation we received contained one set of meeting minutes for each fiscal period, in which the only discussion was to waive the requirement for the yearly audit. Therefore, the documentation does not support the statement that discrete meetings and discussions were held, at least with respect to the Organization.

With respect to the articles available on the GPM website, it is impossible to distinguish between those articles written and distributed by the Organization and those of GPM based on content or author. Without a complete list of the articles written and distributed by the Organization in the fiscal periods under audit, it is not possible to verify that its articles are free and GPM's are not.

Therefore, the Organization has not provided sufficient information to illustrate that it is carrying out its own activities, separately and distinctly from GPM. Our concerns in this matter have not been alleviated.

2. Failure to maintain adequate books and records

Our previous letter discussed subsection 230(2) of the Act, which deals with the maintenance of adequate books and records. We advised that the Organization had failed to maintain such records in that it was unable to provide, with respect

to its seminars, a schedule of events, itineraries, specific content, sample materials, list of attendees, fees charged, if any, for the 2014 fiscal period.

As mentioned above, the Organization's response did provide some additional information regarding its seminars. However, the response did not include sufficient detail such as the specific content discussed, the itineraries of these events, a list of attendees, or sample materials.

As such, our concerns in this matter have not been alleviated and it remains our position that the Organization has failed to maintain adequate books and records in accordance with subsection 230(2).

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.