



**REGISTERED MAIL**

[REDACTED]  
River Valley Lifeline Inc.  
38B Riverside Drive  
Plaster Rock NB E7G 2P8

BN:890454796RR0001  
File #:0847673

**JAN 1 1 2018**

**Subject: Notice of Intention to Revoke  
River Valley Lifeline Inc.**

Dear [REDACTED]:

We are writing further to our letter dated September 7, 2017 (copy enclosed, addressed to Ms. Rowena Simpson, President), in which we invited River Valley Lifeline Inc. (the Organization) to submit representations as to why its registration should not be revoked in accordance with subsection 168(1) of the *Income Tax Act*.

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

### **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: carry out its own charitable activities, direct and control the use of its resources, and devote its resources to a charitable purpose.

Upon further review, we retract the fourth area of non-compliance identified in our September 7, 2017, letter (Issuing receipts not in accordance with the Act), as it is our understanding that the sample donation receipt (blank copy) provided by the Organization was not issued as an official donation receipt. While it remains our position that the blank copy provided by the Organization was missing required elements, as no receipts were issued using it as a template, this issue does not inform our decision to revoke the Organization's registration under subsection 149.1(2) of 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 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 September 7, 2017, identified above, 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)(d), 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.*

<b>Business number</b>	<b>Name</b>
890454796RR0001	River Valley Lifeline Inc. Plaster Rock NB

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 Canada Revenue Agency 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 "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 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 "A". 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 [canada.ca/en/services/taxes/charities](http://canada.ca/en/services/taxes/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 September 7, 2017
- Appendix "A", Relevant provisions of the Act

c.c.: Mr. Kenneth Chappel





**REGISTERED MAIL**

Ms. Rowena Simpson  
President  
River Valley Lifeline Inc.  
38B Riverside Drive  
Plaster Rock NB E7G 2P8

BN: 89045 4796 RRO001  
File #: 0847673

September 7, 2017

**Subject: Audit of River Valley Lifeline Inc.**

Dear Ms. Simpson:

This letter is further to the audit of the books and records of the River Valley Lifeline Inc. (the Organization) conducted by the Canada Revenue Agency (CRA). The audit related to the operations of the Organization for the period from November 1, 2011 to October 31, 2012.

During the course of our audit, CRA has 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 carry out its own charitable activities/Lack of direction and control over the use of the Organization's resources <ul style="list-style-type: none"> <li>Provision of a private benefit</li> </ul>	149.1(1), 149.1(2), 168(1)(b)
2.	Failure to devote resources to a charitable purpose	149.1(1), 149.1(2), 168(1)(b)
3.	Issuing receipts not in accordance with the Act	149.1(2), 168(1)(d), 188.1(7) Reg. 3501

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.

### General legal principles

In order to maintain charitable registration under the Act, Canadian law requires that an organization demonstrate that it is constituted exclusively for charitable purposes (or objects) and that it devotes its resources to charitable activities carried on by the organization itself in furtherance thereof.<sup>1</sup> To be exclusively charitable, a purpose must fall within one or more of the following four categories (also known as "heads") of charity<sup>2</sup> and deliver a public benefit:

- relief of poverty (first category);
- advancement of education (second category);
- advancement of religion (third category); or
- certain other purposes beneficial to the community in a way the law regards as charitable (fourth category).

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<sup>1</sup> See subsection 149.1(1) of the Act, which requires that a charitable organization devote all of its resources to "charitable activities carried on by the organization itself" except to the extent that an activity falls within the specific exemptions of subsections 149.1(6.1) or (6.2) of the Act relating to political activities, and *Vancouver Society of Immigrant and Visible Minority Women v MNR*, [1999] 1 SCR 10 at paras 155-159 [*Vancouver Society*]. A registered charity may also devote resources to activities that, while not charitable in and of themselves, are necessary to accomplish their charitable objectives (such as expenditures on fundraising and administration). However, any resources so devoted must be within acceptable legal parameters and the associated activities must not become ends in and of themselves.

<sup>2</sup> The Act does not define charity or what is charitable. The exception is subsection 149.1(1) which defines charitable purposes/objects as including "the disbursement of funds to qualified donees". The CRA must therefore rely on the common law definition, which sets out four broad categories of charity. The four broad charitable purpose/object categories, also known as the four heads of charity, were outlined by Lord Macnaghten in *Commissioners for Special Purposes of the Income Tax v Pemsel*, [1891] AC 531 (PC) [*Pemsel*]. The classification approach was explicitly approved of by the Supreme Court of Canada in *Guaranty Trust Co of Canada v MNR*, [1967] SCR 133, and confirmed in *Vancouver Society*, supra note 4.

The public benefit requirement involves a two-part test:

- The first part of the test requires the delivery of a **benefit** that is recognizable and capable of being proved, and socially useful. To be recognizable and capable of being proved, a benefit must generally be tangible or objectively measurable. Benefits that are not tangible or objectively measurable must be shown to be valuable or approved by the common understanding of enlightened opinion for the time being.<sup>3</sup> In most cases, the benefit should be a necessary and reasonably direct result of how the purpose will be achieved and of the activities that will be conducted to further the purpose, and reasonably achievable in the circumstances.<sup>4</sup> An assumed prospect or possibility of gain that is vague, indescribable or uncertain, or incapable of proof, cannot be said to provide a charitable benefit.<sup>5</sup>
- The second part of the test requires the benefit be directed to the **public** or a sufficient section of the public. This means a registered charity cannot
  - have an eligible beneficiary group that is negligible in size, or restricted based on criteria that are not justified based on the charitable purpose(s); or
  - provide an unacceptable private benefit. Typically, a private benefit is a benefit provided to a person or organization that is not a charitable beneficiary, or to a charitable beneficiary that exceeds the bounds of charity. A private benefit will usually be acceptable if it is incidental, meaning it is necessary, reasonable, and not disproportionate to the resulting public benefit.<sup>6</sup>

A charitable activity is one that directly furthers a charitable purpose, which requires a clear relationship and link between the activity and the purpose it purports to further. If an activity is, or becomes, a substantial focus of an organization, it may no longer be in furtherance of a stated purpose. Instead, the activity may further, or even form, a separate or collateral purpose. An organization with a collateral non-charitable purpose is ineligible for registration under the Act.

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<sup>3</sup> See generally *Vancouver Society*, supra note 4 at para 41, Gonthier J, dissenting; *Gilmour v Coats et al*, [1949] 1 All ER 848 [*Gilmour*]; *National Anti-Vivisection Society v IRC*, [1947] 2 All ER 217 at 224 (HL), Wright LJ [*National Anti-Vivisection Society*].

<sup>4</sup> See for example *In re Grove-Grady*, [1929] 1 Ch 557 at 573-574; *Plowden v Lawrence*, [1929] 1 Ch 557 at 583, Russell LJ; *National Anti-Vivisection*, supra note 6 at 49, Wright LJ; *IRC v Oldham Training and Enterprise Council*, [1996] BTC 539 [*Oldham*]; *Pemsel*, supra note 5 at 583.

<sup>5</sup> See *National Anti-Vivisection Society*, supra note 6 at 49, Wright LJ; *In re Shaw decd*, [1957] 1 WLR 729; *Gilmour*, supra note 6, Simonds LJ at 446-447.

<sup>6</sup> For more information about public benefit, see CRA Policy Statement CPS-024, *Guidelines for Registering a Charity: Meeting the Public Benefit Test*.

To comply with the requirement that it devote all of its resources to charitable activities carried on by the organization itself; a registered charity may only use its resources (**funds, personnel and/or property**) in two ways:

- for its *own charitable activities* - undertaken by the charity itself under its continued supervision, direction and control; and
- for gifting to "qualified donees" as defined in the Act.<sup>7</sup>

A charity's own charitable activities may be carried out by its directors, employees or volunteers, or through intermediaries (a person or non-qualified donee that is separate from the charity, but that the charity works with or through, such as an agent, contractor or partner). If acting through an intermediary, the charity must establish that the activity to be conducted will further its charitable purposes, and that it maintains continued direction and control over the activity and over the use of the resources it provides to the intermediary to carry out the activity on its behalf.<sup>8</sup>

Although there is no legal requirement to do so, and the same result might be achieved through other arrangements or means, entering into a written agreement can be an effective way to help meet the own activities test. However, the existence of an agreement is not enough to prove that a charity meets the own activities test. The charity must be able to show that the terms establish a real, ongoing, active relationship with the intermediary,<sup>9</sup> and are actually implemented. A charity must record all steps taken to exercise direction and control as part of its books and records, to allow the CRA to verify that the charity's funds have been spent on its own activities. While the nature and extent of the required direction and control may vary based on the particular activity and circumstances, the absence of appropriate direction and control indicates that an organization is resourcing a non-qualified donee in contravention of the Act.

The CRA must be satisfied that an organization's activities directly further charitable purposes in a manner permitted under the Act. In making a determination, we are obliged to take into account all relevant information. Accordingly, the current audit encompassed an enquiry into all aspects of the Organization's operations. The fact that some of the areas of non-compliance identified in this letter may, or may not, have been evaluated in preceding audits does not preclude the need for compliance with existing legal requirements. Furthermore, the CRA may take a position that differs from that reached previously based on reconsideration of the pertinent facts and law.<sup>10</sup>

#### **Identified areas of non-compliance**

<sup>7</sup>-A "qualified donee" means a donee described in subsection 149.1(1) of the Act.

<sup>8</sup> For more information, see CRA Guidance CG-002, *Canadian Registered Charities Carrying Out Activities Outside Canada* and Guidance CG-004, *Using an Intermediary to Carry Out Activities Within Canada*.

<sup>9</sup> See notably *Canadian Committee for the Tel Aviv Foundation v Canada*, 2002 FCA 72 at para 30, [2002] FCJ no 315 [*Canadian Committee for the Tel Aviv Foundation*].

<sup>10</sup> See for example *Canadian Magen David Adom for Israel v MNR*, 2002 FCA 323 at para 69, [2002] FCJ no 1260, Sharlow JA.



**1a). Failure to carry out its own charitable activities/Lack of direction and control over the use of the Organization's resources**

Legislation and jurisprudence

Subsection 149.1(1) of the Act defines a charitable organization, which reads in part as:

"charitable organization", at any particular time, means an organization, whether or not incorporated,

(a) all the resources of which are devoted to charitable activities carried on by the organization itself [...]

Accordingly, a charitable organization must be careful about how it carries on its activities and it must ensure that it keeps sufficient direction and control over its resources, or it could possibly be transferring money to non-qualified donees, which is not a charitable activity.

Though made in reference to an agency relationship, the underlying principles enunciated by the Federal Court of Appeal in *Canadian Committee for the Tel Aviv Foundation v Canada* are applicable to most intermediary arrangements:

Under the scheme of the Act, it is open to a charity to conduct its overseas activities either using its own personnel or through an agent. However, it cannot merely be a conduit to funnel donations Overseas.<sup>11</sup>

And

Pursuant to subsection 149.1(1) of the Act, a charity must devote all its resources to charitable activities carried on by the organization itself. While a charity may carry on its charitable activities through an agent, the charity must be prepared to satisfy the Minister that it is at all times both in control of the agent, and in a position to report on the agent's activities.<sup>12</sup>

As re-iterated by the Court in *Lepletot v MNR*<sup>13</sup>, an organization may carry on charitable activities through an agent if the activities are conducted on behalf of the organization. However, it is not enough for an organization to fund an intermediary that carries on certain activities. The Act requires that the intermediary actually conduct those activities

<sup>11</sup> *Canadian Committee for the Tel Aviv Foundation v Canada*, 2002 FCA 72 at para 30, [2002] 2 CTC 93.

<sup>12</sup> *Canadian Committee for the Tel Aviv Foundation v Canada*, 2002 FCA 72 at para 40, [2002] 2 CTC 93.

<sup>13</sup> *Lepletot v MNR*, 2006 FCA 128 at para 5, [2006] 3 CTC 252.

on the organization's behalf. Likewise, the Court in *Canadian Magen David Adom for Israel* mentions the importance of monitoring the activities when it stated that:

[A] charity that chooses to carry out its activities in a foreign country through an agent or otherwise must be in a position to establish that any acts that purport to be those of the charity are effectively authorized, controlled and monitored by the charity.<sup>14</sup>

Consequently, where a registered charity undertakes an activity through an intermediary, it must be able to substantiate that it has actually arranged for the conduct of that specific activity on its behalf and has not simply made a transfer of funds to a non-qualified donee. It must be able to demonstrate that it maintains direction and control over, and is fully accountable for, the use of its resources. To this end, a charity would be expected to:

- select the activity that it will conduct with or through an intermediary based on the fact that it will further the charity's charitable purposes, and after being satisfied that the intermediary is capable of conducting the activity on the charity's behalf; and
- supervise/direct, and make significant decisions in regard to the conduct of, the activity on an ongoing basis.

To this end, the Organization is required to establish that it maintains continued direction and control over the substantive charitable activities that are ostensibly being carried out on its behalf. In this regard, the existence of an arrangement with an intermediary, written or otherwise, is not enough to prove that a charity meets the own activities test. The Organization must be able to show that the terms of any arrangement establish a real, ongoing, active relationship with the intermediary,<sup>15</sup> and are actually implemented. For instance, the documentation should include:

- a clear, complete, and detailed description of the activity that is to be conducted, how it furthers the charitable purposes of the Organization and how it is to be carried out by the project participant on the Organization's behalf, including parameters, deliverables, milestones or goals;
- provision for real and effective monitoring and supervision of the activity, and the project participant carrying on the activity, with mechanisms for someone

<sup>14</sup> *Canadian Magen David Adom for Israel v MNR*, 2002 FCA 323 at para 66, [2002] FCJ no 1260.

<sup>15</sup> See notably *Canadian Committee for the Tel Aviv Foundation v Canada*, 2002 FCA 72 at para 40, [2002] 2 C TC 93.

accountable to the Organization to give instructions about, have input into, and modify the nature or scope of, the activity on an on-going basis; and

- a requirement for the Organization to receive regular, meaningful reports as the activity progresses. To be meaningful, reporting requirements must specify issues to be covered, and when they must be submitted, to ensure the Organization has the opportunity to make significant decisions in regard to the conduct of the activity on a timely and ongoing basis.

### Audit findings – Activities

The audit revealed that the Organization does not carry out its own activities, but rather, facilitates [REDACTED] (the Company), previously [REDACTED]

[REDACTED] The Company is not a qualified donee. The following various documentation we received from the Organization demonstrates inconsistencies as to whether the Organization directs and controls its resources.

- a) Incoming correspondence dated November 11, 2014 (Item 10), where the Organization stated that it originally did its own monitoring with equipment leased but later "...transitioned to the Central Monitoring process on a monthly fee for service. There is an agreement with [REDACTED] for the provision of services..."

A template version of an agreement titled "Monitored Service Agreement" between the Organization and the Company was attached, where it stipulates that the Organization is the entity providing the monitoring services, the dispatching of Emergency Services personnel, as well as the installation of equipment services to subscribers (Items 3, 4, and the *Privacy Policy – Subscriber Information* section of the agreement). Furthermore, the Company is not mentioned anywhere in this document and this information conflicts with the monitoring agreement noted below.

A signed agreement titled [REDACTED] [REDACTED] dated January 28, 2001, was attached, where it stipulates that the Organization is the entity providing the installation services but *the Company is the entity providing the monitoring services to subscribers*. The following sections also reveal that the Company is directing and controlling the activity and thus, not on the Organization's behalf:

- Item 1.1: Incentive with conversion rates;
- Item 1.2: The Company does the monitoring;

- Item 2.1: The Organization may only use the Company;
- Item 2.2: The Organization will market the Company (private benefit);
- Item 2.3: The Organization assigns all its rights to the Company;
- Item 3 : The Company grants licensing to the Organization;
- Item 4 : The Company can increase the monitoring fees;
- Item 5.3: Right of refusal when in fact, the Organization should be in control of its resources;
- Item 6.1: The Company can solely rely upon responders' statements;
- Item 8 : The Organization must repay the Company, but as stated above, the Organization may only gift to qualified donees;
- Item 9.7: The Company does the monitoring; and
- Item 9.8: The nature of the relationship is described, and fails to show the Organization carries out, directs and controls its own activities.

Additionally, Schedule A of the [REDACTED] explains the conversion rates, which the Company—not the Organization—has determined.

Finally, item 12 of Exhibit 1 of the [REDACTED] states that the agreement is between the Organization, the Company, and the subscriber.

- b) Incoming correspondence dated October 18, 2016. The Organization stated "The only affiliation that the Corporation has with [REDACTED] is that we purchase all of the products that we use from them and we also hire them to monitor our clients on a 24 hour basis. When we do a new installation we do not tell the client that we buy our equipment from [REDACTED] and we do not tell them that [REDACTED] monitors our system." (paragraph 3).

The Organization also stated "[REDACTED] has no involvement in any decision that we make regarding pricing, inventory... financing..." (paragraph 6).

Last, the Organization states "It makes more sense for our Corporation to hire [REDACTED] to monitor our clients on a daily basis, than it would for a small Corporation to try to do the monitoring ourselves." (paragraph 8).

All of these documents support our conclusion that the Company's program is being furthered—and promoted—by the Organization. This arrangement does not qualify as a registered charity conducting its own activities. It is our view that the Organization does not act independently from the Company because the activity of monitoring is being run by the Company, a non-qualified donee, and not the Organization.

#### **1b). Provision of a private benefit**

## Legislation and jurisprudence

As indicated above, to be charitable at law, a purpose must fall within a category of charity and deliver a public benefit. However, it is not enough that a purpose, on its face, falls within one or more of the four categories of charity and delivers a charitable benefit to a properly defined eligible beneficiary group. The public requirement also means a charity may not provide private benefits as it advances and furthers a charitable purpose, except within legally acceptable boundaries.<sup>16</sup> The charity is responsible for establishing that any private benefit that may be delivered is acceptable.

Generally, a private benefit is a benefit or advantage provided to a person or organization that is not a charitable beneficiary, or a benefit provided to a charitable beneficiary that exceeds the bounds of charity. An acceptable private benefit is one that is incidental to achieving a charitable purpose. A private benefit will usually be incidental where it is necessary, reasonable, and proportionate to the resulting public benefit<sup>17</sup>.

*Necessary* essentially means legitimately and justifiably resulting from an action that directly contributes towards achieving a charitable purpose, or a required step in, or consequence or by-product of, an action taken only to achieve a charitable purpose.<sup>18</sup>

*Reasonable* means related to the need and no more necessary to achieve the purpose,<sup>19</sup> and fair and rational. *Proportionate to the resulting public benefit* means a private benefit must be secondary and subsidiary to a charitable purpose.<sup>20</sup> It cannot be a substantial part of a purpose, or form an additional or independent non-charitable end in and of itself. The public benefit cannot be too indirect, remote or speculative as compared to a more direct private benefit, particularly where the direct benefit is to private persons, entities or businesses.<sup>21</sup>

Charities established, in whole or in part, for the purpose of advancing the corporate interests of for-profit organizations, will lack the degree of public benefit vital to a charity and will not meet the public benefit test explained above. While the CRA recognizes that

<sup>16</sup> See for example *Prescient Foundation v MNR*, 2013 FCA 120 at para 36, [2013] FCJ no 512.

<sup>17</sup> For more information, see CRA Policy Statement CPS-024, *Guidelines for Registering a Charity: Meeting the Public Benefit Test*.

<sup>18</sup> See for example *Incorporated Council of Law Reporting for England and Wales v AG*, [1972] Ch 73, [1971] 3 All ER 1029 (CA); *Royal College of Surgeons of England v National Provincial Bank*, [1952] AC 631; *Royal College of Nursing v St Marylebone Borough Council*, [1959] 1 WLR 1007 (CA); *IRC v Oldham Training and Enterprise Council*, [1996] BTC 539.

<sup>19</sup> See for example *Joseph Rowntree Memorial Housing Association Ltd and Others v AG*, [1983] Ch 159 (Ch D); *In Re Resch's Will Trusts And Others v Perpetual Trustee Co Ltd*, [1969] 1 AC 514 (PC).

<sup>20</sup> *Incorporated Council of Law Reporting for England and Wales v AG*, [1972] Ch 73, [1971] 3 All ER 1029 (CA); *Inland Revenue Commissioner v City of Glasgow Police Athletic Association*, [1953] AC 380 (HL); *IRC v Oldham Training and Enterprise Council*, [1996] BTC 539.

<sup>21</sup> See for example *IRC v Oldham Training and Enterprise Council*, [1996] BTC 539; *Canterbury Development Corporation v Charities Commission*, [2010] NZHC 331; *Hadaway v Hadaway*, [1954] 1 WLR 16 (PC); *Re Co-operative College of Canada et al and Saskatchewan Human Rights Commission*, [1975] 64 DLR (3d) 531.

some private benefit may occur when a charity pursues its charitable purposes, such private benefit is only acceptable as long as it arises directly through the pursuit of its charitable purposes, and as long as it is incidental to the achievement of that purposes. In other words, the private benefit must be inevitable and necessary for the charity to achieve its charitable purposes. Furthermore, any resulting private benefit must not amount to a non-charitable purpose, such as the promotion of a commercial business.

### Audit findings – Private benefit

Based on the information contained in the documents listed above, it is our view that the Organization is primarily acting as an intermediary for the programs offered by the Company, which does not constitute the Organization's own activity. We acknowledge that the provision of a personal emergency response system has a charitable intent; however, the Organization itself does not provide or operate the monitoring system. Rather, the Organization's role is limited to the installation (and maintenance) of the equipment. Furthermore, per the Company's website, these services appear to be offered directly by the Company itself. In this regard, the private benefit conferred to the Company, as a result of the Organization's activities, is not ancillary and incidental, and the Organization has not demonstrated that the benefit is necessary to achieve its purposes.

### Summary

It is our opinion that the Organization has failed to devote its resources to charitable activities carried on by the Organization itself due to the absence of direction and control over the use of resources/resourcing non-qualified donees, and therefore has failed to demonstrate that it meets the test for continued registration under 149.1(1) of the Act. Under subsection 149.1(2) of the Act, the Minister may revoke the registration of the registered charity in the manner as described at paragraph 168(1)(b) of the Act.

## **2. Failure to devote resources to a charitable purpose**

### Legislation and jurisprudence

In order to satisfy the definition of a "charitable organization" pursuant to subsection 149.1(1) of the Act, "charitable organization" means an organization, "all the resources of which are devoted to charitable activities".

To qualify for registration as a charity under the Act, an organization must be established for charitable purposes that oblige it to devote all its resources to its own charitable activities. This is a two-part test. First, the purposes it pursues must be wholly charitable and second, the activities that a charity undertakes on a day-to-day basis

must support its charitable purposes in a manner consistent with charitable law. Charitable purposes are not defined in the Act and it is therefore necessary to refer, in this respect, to the principles of the common law governing charity. An organization that has one or more non-charitable purposes or devotes resources to activities undertaken in support of non-charitable purposes cannot be registered as a charity.

The Organization was registered with the following purposes, per Item 4 of its Letters Patent under the *Companies Act* of New Brunswick, certified October 13, 1989:

- (a) To acquire, maintain and operate an electronic health emergency monitoring and response system in the Carleton and Victoria County area of the Province of New Brunswick.
- (b) To attain the above object, the applicant shall:
  - (i) acquire the necessary equipment;
  - (ii) provide training programs for subscribers;
  - (iii) promote and publicize the availability of the health emergency response system;
  - (iv) co-ordinate with hospitals and health related institutions to provide the service to the community.
- (c) To purchase, hold, acquire, enjoy, sell, convey, encumber, mortgage, lease, dispose of and manage property both real and personal of every kind and description.
- (d) To carry on any other activities of a similar nature which may seem to the company capable of being conveniently carried on in connection with its objects.
- (e) That upon the dissolution of the Company and after payment of all debts and liabilities its remaining property shall be distributed or disposed of to Canadian charitable organizations having objects the same as or similar to the objects of the Company. And that no part of any property of the Company shall be available to its members upon dissolution.

Once registered, a charity must only pursue activities in furtherance of the specific charitable purposes as approved by the CRA. The implicit understanding is that the charity will not undertake any activity beyond those described in the application for charitable registration. This is necessary to ensure that the charity will operate within the limitations imposed by the Act. When an organization wishes to change its formal stated purposes, it must formally notify the Charities Directorate of the change.

#### Audit findings

The CRA has not been made aware of any changes to the purposes above since initial registration was granted on October 13, 1989. The Organization has demonstrated that

the activities it undertakes on a day-to-day basis do not support its charitable purposes in a manner consistent with charitable law. In fact, the evidence presented during the audit, as outlined in correspondence received from the Organization dated November 11, 2014, demonstrates that the Organization failed to retain the necessary direction and control over its resources to fully demonstrate that it operates in a charitable manner in pursuit of its registered purposes. A preponderance of the effort and resources of the Organization are devoted to providing resources to the Company, which—as we have stated throughout this letter—is non-qualified donee.

### Summary

It is our opinion that the Organization has failed to devote its resources to a charitable purpose, and therefore has failed to demonstrate that it meets the test for continued registration under 149.1(1) of the Act. Under subsection 149.1(2) of the Act, the Minister may revoke the registration of the registered charity in the manner as described at paragraph 168(1) (b) of the Act.

## **4. Issuing receipts not in accordance with the Act**

### Legislation and jurisprudence

Regulation 3501 of the Act states that every official receipt issued by a registered organization shall contain a statement that it is an official receipt for income tax purposes and shall show clearly in such a manner that it cannot readily be altered.

### Audit findings

The Organization was only able to provide a sample blank copy of an official donation receipt because it had not issued any during the fiscal period under audit (October 31, 2012). The audit revealed that one part of the blank copy did not fully comply with the requirements of Regulation 3501 of the Act. Specifically, the Organization's sample blank copy did not contain the address in Canada as recorded with the Minister (*38B Riverside Dr, Plaster Rock NB E7G 2P8*)

The following information was also missing, but only if we are to assume that the information would be hand-written (not forming part of the template of the receipt):

- a statement that it is an official receipt for income tax purposes;
- the registration number assigned by the Minister to the organization;
- the place or locality where the receipt was issued;
- the address of the donor



- the eligible amount of the gift;
- the signature of a responsible individual who has been authorized by the organization to acknowledge gifts; and
- the name and Internet web site of the Canada Revenue Agency.

### Summary

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) (d) of the Act where a registered charity issues a receipt for a gift or donation otherwise than in accordance with the Act and the Regulations or that contains false information.

### 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;
- 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 numbers indicated below. My manager, Arlene Proctor, may also be reached at [REDACTED]

Yours sincerely,

[REDACTED]

Tanya Barbeau  
Technical Policy Advisor  
Compliance, Education &  
Outreach Section  
Charities Directorate

Telephone: [REDACTED]  
Toll Free: 1-800-267-2384  
Facsimile: 613-946-6484  
Address: 320 Queen Street  
Ottawa ON K1A 0L5

c.c.: Mr. Kenneth Chappel

[REDACTED]

**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.