



September 18, 2025

REGISTERED MAIL

Attn:
Rick Wronzberg
Treasurer
The Canadian Foundation for Masorti Judaism
Suite #201
55 Yeomans Road
Toronto ON M3H 3J7

BN: 129713988RR0001

Case number:

Dear Rick Wronzberg:

**Subject: Notice of intention to revoke
The Canadian Foundation for Masorti Judaism**

We are writing with respect to our letter dated March 25, 2025 (copy enclosed), in which The Canadian Foundation for Masorti Judaism (the Organization) was invited to respond to the findings of the audit conducted by the Canada Revenue Agency (CRA) for the period from January 1, 2020, to December 31, 2021. Specifically, the Organization was asked to explain why its registration should not be revoked in accordance with subsection 168(1) of the *Income Tax Act* (Act). The letter additionally proposed financial penalties and suspension of tax-receipting privileges pursuant to subsections 188.1(4) and (5) and section 188.2 of the Act respectively, as possible consequences.

The Organization failed to provide any representations.

Conclusion

The audit by the CRA found that the Organization continues not to comply with the requirements of the Act. In particular, it was found that the Organization failed to demonstrate that it has implemented all of the agreed upon corrective measures, outlined in a compliance agreement that was signed by the Organization in 2019 following a previous audit. Specifically, the current audit found repeat non-compliance in that the Organization failed to maintain and provide adequate books and records and failed to devote resources to charitable activities carried on by the Organization itself by gifting to non-qualified donees and providing non-incident private benefits. In addition, the Organization failed to issue official donation receipts in accordance with the Act /or its Regulations.

This repeated non-compliance constitutes a serious breach of the requirements for registration. For these reasons, it is our position that the Organization no longer meets the requirements for charitable registration.

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While we maintain our position that the Organization provided unacceptable private and undue benefits to non-qualified donees, the latter of which is sanctionable under subsections 188.1(4) and 188.1(5) of the Act, and failed to maintain adequate books and records, which is subject to suspension of receipting privileges pursuant to paragraph 188.2(2)(a) of the Act, we are no longer considering assessing these sanctions at this time as we have declared our intention to instead revoke the Organization's registered status.

Revocation for serious breaches of the Act has significant consequences. Notably, the Organization can no longer issue official donation receipts, will be subject to a revocation tax and any individuals that are considered to have been a director, trustee, officer, and/or like official of the Organization during the audit period under review are deemed to be an ineligible individual pursuant to subsection 149.1(1) of the Act.

Consequently, for the reasons mentioned in our letter dated March 25, 2025, and pursuant to subsection 168(1) of the Act, we hereby notify you of our intention to revoke the registration of the Organization. By virtue of subsection 168(2) of the Act, the 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), 168(1)(e), and subsection 149.1(2), subsection 149.1(3), subsection 149.1(4), and subsection 149.1(4.1) of the *Income Tax Act*, that I propose to revoke the registration of the charity listed below and that by virtue of paragraph 168(2)(b) thereof, the revocation of registration is effective on the date of publication of this notice in the *Canada Gazette*.

Business number	Name
129713988RR0001	The Canadian Foundation for Masorti Judaism Toronto ON

As the CRA has decided to revoke the Organization's registration, the Minister will publish a copy of this notice in the *Canada Gazette* immediately after the expiration of **30 days** from the date of mailing pursuant to paragraph 168(2)(b) of the Act.

Should the Organization choose to object to this notice of intention to revoke its registration in accordance with subsection 168(4) of the Act, a written notice of objection, with the Organization's business number, 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 must be sent to:

Assistant Commissioner
Appeals Intake Centre
Post Office Box 2006, Station Main
Newmarket ON L3Y 0E9

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However, please note that even if the Organization files a notice of objection with the CRA Appeals Branch, this will not prevent the CRA from publishing the notice of revocation in the *Canada Gazette* immediately after the expiration of 30 days from the date of mailing of this notice.

The Organization has the option of filing an application with the Federal Court of Appeal (FCA), as indicated in paragraph 168(2)(b) of the Act, to seek an order staying publication of the notice of revocation in the *Canada Gazette*. The FCA, upon reviewing this application, may extend the 30-day period during which the CRA cannot publish a copy of the notice.¹

A copy of the relevant provisions of the Act concerning revocation of registration, including appeals from a notice of intention to revoke registration, can be found in Appendix A, attached.

Consequences of revocation

As of the effective date of revocation:

- a) the Organization will no longer be exempt from Part I tax as a registered charity and **will no longer be permitted to issue official donation receipts**. This means that gifts made to the Organization would not be allowable as tax credits to individual donors or as allowable deductions to corporate donors under subsection 118.1(3) and paragraph 110.1(1)(a) of the Act respectively;
- b) by virtue of section 188 of the Act, the Organization will be required to pay a tax within one year from the date of the notice of intention to revoke. This revocation tax is calculated on Form T2046, Tax Return where Registration of a Charity is revoked. Form T2046 must be filed, and the tax paid, on or before the day that is one year from the date of the notice of intention to revoke. The relevant provisions of the Act concerning the tax applicable to revoked charities can also be found in Appendix A. Form T2046 and the related Guide RC4424, Completing the Tax Return where Registration of a Charity is revoked, are available on our website at canada.ca/charities-giving;
- c) the Organization will no longer qualify as a charity for purposes of subsection 123(1) of the *Excise Tax Act*. As a result, the Organization may be subject to obligations and entitlements under the *Excise Tax Act* that apply to entities other than charities that may result in significant changes in how the Organization calculates its Goods and Services Tax/Harmonized Sales Tax (GST/HST) to be collected, input tax credits, and rebate entitlements. If you have any questions about your GST/HST obligations and entitlements, please go to canada.ca/gst-hst or call GST/HST Rulings at 1-888-830-7747 (Quebec) or 1-800-959-8287 (rest of Canada).

¹ Unless an order from the FCA is issued extending the 30-day period, the Minister will publish the notice of revocation in the *Canada Gazette* after the 30-day period has elapsed.

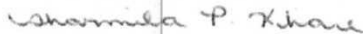
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Reminder

We advise that subsection 150(1) of the Act requires that every corporation (other than a corporation that was a registered charity throughout the year) file a return of income with the Minister in the prescribed form, containing prescribed information, for each taxation year. The return of income must be filed without notice or demand.

Yours sincerely,



Sharmila Khare
Director General
Charities Directorate

Enclosures

- CRA letter dated March 25, 2025
- Appendix A, Relevant provisions of the Act

c.c.: Charles Wrock

The CRA collects personal information in order to administer or enforce the Act and related programs and activities. The CRA may use or disclose the information it collects to administer or enforce other federal acts that provide for the imposition and collection of a tax or duty. In addition, collected information may also be disclosed to other federal, provincial, territorial, or foreign government institutions to the extent authorized by law. Failure to provide information requested by the CRA may result in the assessment of interest and/or penalties, or other compliance enforcement actions. Under the *Privacy Act*, individuals have a right of protection, access to, and correction of, their personal information, or to file a complaint with the Privacy Commissioner of Canada with respect to the handling of their personal information. Please refer to Personal Information Bank CRA PPU 200 on Information about Programs and Information Holdings at canada.ca/cra-information-about-programs or canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra/access-information-privacy-canada-revenue-agency/info-source-appendix.html.



March 25, 2025

Attn: 24 (1)

Rick Wronzberg

Treasurer

The Canadian Foundation for Masorti Judaism

Suite #201

55 Yeomans Road

Toronto ON M3H 3J7

BN: 129713988RR0001

Case number: 24 (1)

Dear Rick Wronzberg:

Subject: Audit of Canadian Foundation for Masorti Judaism

This letter results from the audit of the Canadian Foundation for Masorti Judaism (the Organization) conducted by the Canada Revenue Agency (CRA). The audit related to the operations of the Organization for the period from January 1, 2020, to December 31, 2021.

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

AREAS OF NON-COMPLIANCE		
	Issue	Reference
1.	It is not constituted and operated exclusively for charitable purposes i) Unstated collateral non-charitable purpose	149.1(1) 168(1)(b)
2.	Failed to devote resources to charitable activities carried on by the Organization itself i) Lack of control over its own resources ii) Gifts to non-qualified donees iii) Delivered non-incidental private benefits iv) Conferred an undue benefit to a person	149.1(1) 149.1(2)(c) 168(1)(b) 188.1(4) 188.1(5)
3.	Failed to maintain adequate books and records	168(1)(e) 230(2) 230(4)
4.	Failed to issue official donation receipts in accordance with the Act and/or its Regulations	168(1)(d) Regulations 3500 and 3501 188.1(7)

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As a registered charity, the Organization must comply with the law. If it fails to comply with the law, it may be subject to sanctions under sections 188.1¹ and/or 188.2² of the Act, and/or have its registered charity status revoked in the manner described in section 168 of the Act.

This letter describes the areas of non-compliance identified during the current audit and offers the Organization an opportunity to provide representations to our findings to support why it believes that sanctions should not be assessed and/or why its registered charity status should not be revoked.

General legal principles

In order to maintain charitable registration under the Act, Canadian law requires that an organization demonstrate that it is constituted and operated exclusively for charitable purposes and that it devotes its resources to charitable activities carried on by the organization or makes qualifying disbursements.³ To be exclusively charitable, a purpose must fall within one or more of the following four categories (also known as “heads”) of charity⁴ and deliver a public benefit:

- (1) relief of poverty;
- (2) advancement of education;
- (3) advancement of religion;
- (4) other purposes beneficial to the community as a whole in a way which the law regards as charitable.

An organization’s purposes must fall within one or more of these categories to be considered for registration as a charity. The formal purposes as set out in an organization’s governing document must be clear and precise so as to reflect exclusively charitable purposes. In addition, the purposes must define the scope of the activities that can be engaged in by the organization.⁵

¹ Financial sanctions are assessed under section 188.1 of the Act.

² Suspensions of a registered charity’s authority to issue official donation receipts, and qualified donee status, are assessed under section 188.2 of the Act.

³ 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 or to qualifying disbursements” and *Vancouver Society of Immigrant and Visible Minority Women v MNR*, [1999] 1 SCR 10, 1999 CanLII 704 (SCC) at paras 156-159. A registered charity may also devote resources to activities that, while not charitable in and of themselves, are necessary to accomplish their charitable purposes (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.

⁴ The Act does not define charity or what is charitable. The exception is subsection 149.1(1) which defines charitable purposes as including “making qualifying disbursements” The CRA must therefore rely on the common law definition, which sets out four broad categories of charity. The four broad charitable purpose 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). The classification approach was explicitly approved of by the Supreme Court of Canada in *Guaranty Trust Co of Canada v Minister of National Revenue*, [1967] SCR 133, and confirmed in *Vancouver Society of Immigrant and Visible Minority Women v MNR*, [1999] 1 SCR 10, 1999 CanLII 704 (SCC).

⁵ *Vancouver Society of Immigrant and Visible Minority Women v MNR*, [1999] 1 SCR 10, 1999 CanLII 704 (SCC) at para 159; *Travel Just v Canada Revenue Agency*, 2006 FCA 343 at para 2.

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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 may be measurable or intangible. Benefits that are not tangible or objectively measurable should be shown to be valuable or approved by the common understanding of enlightened opinion for the time being.⁶ In most cases, the benefit should be a necessary and reasonably direct result of how the purpose will be achieved.⁷ 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.⁸
- 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.⁹

Until recently, the Act stated that a registered charity was required to devote all of its resources (funds, personnel, and property) inside or outside Canada to “charitable activities carried on by the organization itself”. This meant a registered charity was required to devote its resources in at least one of two ways:

- on its own charitable activities – undertaken by the charity itself or under its continued supervision, direction and control (i.e. through an intermediary);
- by gifting to qualified donees as defined in the Act.

As a result of a June 2022 amendment to the Act, in addition to devoting its resources to its own charitable activities, a registered charity may now make a qualifying

⁶ For more information about public benefit, see CRA Policy statement CPS-024, Guidelines for registering a charity: Meeting the public benefit test. See also generally *British Columbia (Assessor of Area #09 - Vancouver) v Arts Umbrella*, 2008 BCCA 103; and *Vancouver Society of Immigrant and Visible Minority Women v MNR*, [1999] 1 SCR 10, 1999 CanLII 704 (SCC).

⁷ For more information about public benefit, see CRA Policy statement CPS-024, Guidelines for registering a charity: Meeting the public benefit test, and CRA Guidance CG-019, How to draft purposes for charitable registration. See also; *Commissioners for Special Purposes of the Income Tax v Pemsel*, [1891] AC 531 (PC) at 583.

⁸ *Co-operative College of Canada v. Saskatchewan (Human Rights Commission)*, 1975 CanLII 808 (SKCA) at para 19; *Vancouver Society of Immigrant and Visible Minority Women v MNR*, [1999] 1 SCR 10, 1999 CanLII 704 (SCC) at para 202; for more information about charitable purposes see CRA Guidance CG-019, How to draft purposes for charitable registration at para 19.

⁹ For more information about public benefit, see CRA Policy statement CPS-024, Guidelines for registering a charity: Meeting the public benefit test.

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disbursement¹⁰. Under qualifying disbursements, registered charities may continue gifting to qualified donees and can now make a grant to a grantee organization. With grants, a charity can support the grantee's own activities, provided the charity shows that it meets the requirements. Please see Guidance CG-032, *Registered charities making grants to non-qualified donees*.

It is important to note that the legislative change is not retroactive. As the Organization's audit period is January 1, 2020, to December 31, 2021, the non-compliance issues outlined in this letter reflect the Act's requirements as they existed at that time. However, this letter additionally considers the identified non-compliance within the context of the new legislation. Our concerns regarding the Organization's non-compliance remain.

The CRA must be satisfied that an organization's activities directly further charitable purposes in a manner permitted under the Act.

Background

The Organization was incorporated under the *Canada Corporations Act* on October 19, 1989, and registered as a charitable organization effective December 1, 1989. It transitioned to the *Canada Not-for-profit Corporations Act* on October 8, 2014, with the following purposes:

To receive and maintain a fund or funds and to apply from time to time all or part thereof of the income therefrom and to carry on or participate in activities for educational, religious and other charitable purposes including but without limiting the generality of the foregoing:

- (1) To promote understanding of and adherence to the principles of Conservative (Masorti) Judaism;
- (2) To disseminate within the Jewish community information concerning Judaism and Jewish tradition from a Conservative viewpoint;
- (3) To promote and encourage research in and the study of Conservative (Masorti) Judaism;
- (4) To cause publication in English, in Hebrew, and in other languages, books, journals, articles and other literary works related to and connected with Conservative (Masorti) Judaism; and
- (5) To develop methods and materials for the teaching of Jewish tradition.

At time of registration the Organization's statement of activities was:

"It is anticipated that the Canadian Foundation for Masorti Judaism will provide funds for a variety of religious and other charitable purposes, all as set out in the Letters Patent of the Foundation, in conjunction with the professionals at various organizations affiliated with the Foundation for Masorti Judaism, an Israeli charitable organization."

¹⁰ Subsection 149.1(1) – Definitions: "qualifying disbursement". Effective June 23, 2022

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A specific breakdown of activities was not provided; however, an information booklet for the Foundation for Masorti Judaism was submitted. This booklet appears to be for a different entity with an address in 24 (1)

Identified areas of non-compliance – Previous audit

The Organization was previously audited for the period January 1, 2016, to December 31, 2017. This audit identified specific areas of non-compliance with the Act:

- Failure to maintain direction and control over the use of resources.
- Failure to maintain proper books and records.

Specifically, the Organization did not provide detailed records of budgets and funds sent outside of Canada and did not demonstrate that funds transferred to its agent were used to carry out activities in furtherance of its charitable purposes. Additionally, the Organization did not provide records to demonstrate who was actually making its operational decisions.

The Organization agreed to rectify the non-compliance by entering into a Compliance Agreement with the CRA. The agreement, dated November 20, 2019, stated that if the Organization is unable to demonstrate direction and control, it was, in effect, acting as a conduit. The Organization agreed to maintain signed and certified copies of meeting minutes demonstrating that the Board of Directors hold their own meetings and make informed decisions regarding the Organization's participation in the activities.

Identified areas of non-compliance – Current audit

1. It is not constituted and operated exclusively for charitable purposes

i) Unstated collateral non-charitable purpose

Legislation and jurisprudence

Subsection 149.1(1) of the Act states that a charitable organization is an organization that is "constituted and operated exclusively for charitable purposes".¹¹

The question of whether an organization is constituted exclusively for charitable purposes cannot be determined solely by reference to its stated purposes, but must take into account the activities in which an organization currently engages. This is discussed in

¹¹ See Subsection 149.1(1) of the *Income Tax Act* for a definition of charitable organization.

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Vancouver Society of Immigrant and Visible Minority Women v MNR, the Supreme Court of Canada.¹²

A charitable activity is one that directly furthers a charitable purpose. It 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 purpose. An organization with an unstated non-charitable purpose is ineligible for registration under the Act.

Further, the courts have stated that some activities that are charitable in Canada may not be charitable when carried on in a different country. For example, it is charitable to increase the effectiveness and efficiency of Canada's armed forces, but it is not charitable to support the armed forces of another country.¹³

If a charity chooses to conduct its own activities through an intermediary, the charity must establish that the activity to be conducted will further its charitable purposes. Additionally, the charity must still direct and control the use of its resources as the charity cannot merely contribute to, or act as a financial conduit for, the programs of another organization.

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.¹⁴

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.¹⁵

¹² *Vancouver Society of Immigrant and Visible Minority Women v MNR*, [1999] 1 SCR 10, 1999 CanLII 704 (SCC) at para 194, Iacobucci J. See also *AYSA Amateur Youth Soccer Association v Canada (Revenue Agency)*, 2007 SCC 42 at para 42.

¹³ CG-002, Canadian registered charities carrying on activities outside Canada. Canadian registered charities carrying on activities outside Canada - Canada.ca

¹⁴ *Canadian Committee for the Tel Aviv Foundation v Canada*, 2002 FCA 72 at para 30, Rothstein JA.

¹⁵ *Canadian Committee for the Tel Aviv Foundation v Canada*, 2002 FCA 72 at para 40, Rothstein JA.

Audit findings

The audit revealed that the Organization purposefully acted as a conduit for non-qualified donees in Israel. Additionally, the Organization has co-mingled its charitable resources with MERCAZ-Canada, a non-qualified donee in Canada. It appears that the Organization, together with MERCAZ-Canada, is a Canadian fundraising arm for the Masorti Movement¹⁶ in Israel.

Relationship with MERCAZ-Canada

The Organization and MERCAZ-Canada share a website, www.masorti-mercaz.ca, which is the same website as www.mercaz.ca. During the audit period, the Organization's directors were also MERCAZ-Canada's directors. Specifically, Stan Greenspan, Charles Wrock, Rick Wronzberg, Rabbi David Seed, Stanley Greenspan, and Rabbi Jennifer Gorman. [24 (1)] was the Executive Director for both organizations. Additionally, the Organization and MERCAZ-Canada share resources such as an office and staff members, and send out joint newsletters and communication materials. Further, the Organization's official donation receipts (ODRs) include the MERCAZ-Canada logo. "MERCAZ" appears prominently in bold above "Masorti" and "The Zionist organization of the Conservative/Masorti Movement," which appears to be the slogan of MERCAZ USA.¹⁷

The audit revealed that the Organization allows MERCAZ-Canada to make decisions over the use of the Organization's charitable resources. Meeting minutes from a November 17, 2020, joint meeting reference the "Masorti Allocation", which are the funds the Organization allocates to entities in Israel. Charles Wrock, the Organization's president, moved to accept the allocation, and [24 (1)], who appears to be a director of only MERCAZ-Canada, seconded.

The Organization's 2021 Annual General Meeting was a joint meeting with MERCAZ-Canada, and the meeting minutes state, "Many of the CFMJ endeavours are double branded with MERCAZ". In addition, meeting minutes of July 14, 2021, state, "[O]nce we have the new database set up, we will be moving forward on changes to membership; working with synagogues to sign people up, multi-tiered membership levels jointly with CFMJ".¹⁸

The minutes from another joint meeting on October 18, 2021, reference a new program called "The Terumah Fund". The minutes state that "the fund will be an endowment for Masorti from which we can eventually fund programs in Canada and in Israel."¹⁹ However, it appears that the funds received are also used by MERCAZ-Canada. The financial report from Rick Wronzberg included in the meeting minutes, references MERCAZ-Canada memberships and related donations, that, "[T]he donation will go into

¹⁶ The Organization's website states, "Founded in 1979, the Masorti Movement is the umbrella organization of Masorti kehillot (congregations and communities) which aim to promote a healthy, pluralistic, spiritual and ethical foundation for Israeli society." <https://mercaz.ca/donate-masorti/>

¹⁷ <https://www.mercazusa.org> (accessed September 26, 2024.)

¹⁸ Joint MERCAZ-CFMJ Board Meeting, Wednesday, July 14, 2021.

¹⁹ Joint MERCAZ-CFMJ Board Meeting, Monday October 18, 2021.

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the Terumah fund, which will be able to support the office and programming, enabling MERCAZ to better use its funds”.²⁰

In addition, during the audit, the Organization provided a letter titled “Five Things Your Synagogue Can do”, which refers to a specific program called Check-off. The document states:

“Check-off is a national program of MERCAZ-Canada and Canadian Foundation for Masorti Judaism directly connecting our congregational members to the Masorti movement in Israel.”

and

“Canadian Foundation for Masorti Judaism is a registered charity raising funds for T’nua Masortit²¹ through check-off and personal donations”. “MERCAZ-Canada and Canadian Foundation for Masorti Judaism are supported by the monies collected through Check-Off”.²²

We note that the Organization’s website states the following information, which highlights a joint retreat:

Annual MERCAZ-Canada Retreat

Each year, our Canadian FJMC Region, Anshe Zafon, hosts a retreat. MERCAZ-Canada has joined them for a joint retreat in 2019 and is planning on doing so again in 2021.

The retreat will feature specific MERCAZ seminars as well as joint keynotes with the Men's Club members.²³

Operating as a conduit for non-qualified donees

Our audit revealed that the Organization is operating as a conduit for multiple non-qualified donees. If a charity operates as a conduit for a non-qualified donee, it is neither furthering a charitable purpose nor maintaining direction and control of its own charitable resources.

Below, we provide each of the audit findings that led to our conclusion that the Organization is operating as a conduit for non-qualified donees.

²⁰ Joint MERCAZ-CFMJ Board Meeting, Monday October 18, 2021.

²¹ T’nau Masortit appears to be another name of the Masorti Movement. FAQ’s – MER [https://mercaz.ca/home-copy/CAZ-Canada/Canadian Foundation for Masorti Judaism](https://mercaz.ca/home-copy/CAZ-Canada/Canadian%20Foundation%20for%20Masorti%20Judaism) (accessed July 17, 2024.)

²² Joint MERCAZ-Canada and Canadian Foundation for Masorti Judaism letter titled “Five Things Your Synagogue Can Do”

²³ Programmes – MERCAZ-Canada/Canadian Foundation for Masorti Judaism (archive.org)

Operating as a conduit: Review of the Organization's website

A review of the Organization's website²⁴ during the audit period revealed that the Organization has referred to itself as "The Canadian Foundation for Masorti Judaism in Israel". The website also contained the following information²⁵

"What is Canadian Foundation for Masorti Judaism?"

The Canadian Foundation for Masorti Judaism in Israel is a Canadian charitable organization which raises funds to support activities run through the Masorti Movement, individual kehillot or other Masorti institutions in Israel, and educational and Zionist programs for Canadians. CFMJ promotes Masorti/Conservative scholarship and outreach in Canada. The Foundation, along with MERCAZ-Canada, also serves as the Movement's Zionist voice to Canadian media, public officials and Jewish leadership. **[emphasis added]**

What is MERCAZ Canada?

MERCAZ-Canada is [the] Canadian affiliate of MERCAZ Olami, the Zionist organization of the Masorti/Conservative Movement. Our mission is to further the cause for true religious pluralism in Israel and to strengthen the connection between, and create engagement opportunities for, the people of Israel and Jews living in the Diaspora.

MERCAZ provides representation for the Masorti/Conservative Movement on the decision making bodies of the Jewish Agency for Israel, Keren Kayemet LeYisrael (JNF), the World Zionist Organization and Congress, and Canadian Zionist Federation, **ensuring funding for Masorti/Conservative Kehillot and programs throughout Israel and around the globe.**

What is the Difference Between MERCAZ, MASORTI Israel and The Foundation for Masorti Judaism?

MERCAZ is the Zionist Organization that serves the interests of the Conservative/Masorti Movement around the world. It is the Zionist conscience of our Movement and the guarantor for proper recognition and funding for Conservative/Masorti programs and institutions around the world. Among other things, MERCAZ is the advocate and the force which guarantees religious stream funding that is so vital to our Movement.

MASORTI is the name of the Conservative Movement outside North America. It is derived from a Hebrew word that means "tradition," and represents a modern egalitarian and inclusive approach to traditional Jewish life. Masorti Israel represents our Movement in Israel, where Masorti Olami represents the rest of the world.

²⁴ FAQ's – MERCAZ-Canada/Canadian Foundation for Masorti Judaism (archive.org)

²⁵ FAQ's – MERCAZ-Canada/Canadian Foundation for Masorti Judaism (archive.org)

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The Canadian Foundation for Masorti Judaism in Israel raises essential funding to support programs run through the Israeli Masorti Movement, its congregations, youth and camping programs, absorption projects, Kibbutz Hannaton and other social, legal, and religious efforts. Conservative Movement Zionists should support the programs and institutions our Israeli partners through the Masorti Foundation, but only by joining MERCAZ do you have a voice in the international Zionist arena to work for the recognition and welfare of the entire Movement. Only as a MERCAZ member can you make a difference in the deliberations and decisions of the World Zionist Organization and World Zionist Congress.

What are the collective Goals of MERCAZ and Masorti?

MERCAZ and Masorti are committed to bringing Conservative Jews closer to Zionism and to Israel, helping to promote Conservative/Masorti Judaism, and working with the constituent arms of our Movement to achieve the following goals:

- Creating and disseminating Zionist educational materials, promoting the study of the Hebrew language, and raising the Zionist consciousness of Conservative Jews.
- Increasing Zionist activities and promoting short-term and long-term programs in Israel for youth and adults.
- **Promoting and encouraging aliyah to Israel.**
- **Representing the interests of the Conservative/Masorti Movement in the World Zionist Organization and in the Jewish Agency for Israel, where we serve as a voice and a force for guaranteeing diverse religious stream funding.**
- Promoting Conservative/Masorti Judaism and religious pluralism in Israel.

What is the Masorti Movement's budget and what does it cover?

The present budget is \$2.5 million. This covers all national programs and subsidies to Masorti congregations, including youth programs and rabbinic support. In Israel, Orthodox religious institutions, including synagogues, are funded by the State, with expectation of cost-less participation. Virtually no public funding goes to the Masorti or Reform Movements.

Masorti Kehillot (congregations), contrary to Israeli custom, collect dues to fund local and national programs. **To grow, the Movement needs the help and support of allies in North America.**

Religious pluralism and freedom are not luxuries. The struggle for democracy and equal treatment for all Jews in Israel is a foundational idea of our Movement.²⁶

A further review shows that the MERCAZ Olami organization, which states that they are the political arm in the National Institutions of the worldwide Conservative/Masorti, lists

²⁶ Scholarships – MERCAZ-Canada/Canadian Foundation for Masorti Judaism (archive.org)

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MERCAZ-Canada as one of its regional branches. It also lists the “Masorti group”, presumably referring to the Organization, as a fundraiser for the Masorti movement:²⁷

“MERCAZ Canada
About the Chapter

The Zionist organizations of Conservative Judaism in Canada, advocating in support of Israel and Masorti/Conservative Judaism. MERCAZ-Canada is our membership organization affiliated with MERCAZ Olami, representing Masorti/Conservative Judaism in the World Zionist Organization and Jewish Agency for Israel.

Masorti is a philanthropic group, raising funds to support the Masorti Movement in Israel, our kehillot across Israel, and our outreach and educational programs in order to foster the ideals of pluralism, tradition, study, and spirituality.” **[emphasis added]**

We note that the Organization’s current website still shows the following information:²⁸

- YOUR Voice in Israel
MERCAZ: the Movement to Reaffirm Conservative Zionism, is the Zionist voice of Conservative Judaism in Canada. A grassroots membership organization, we promote and support Israel education and programs, and represent the interests of Masorti/Conservative Judaism in the World Zionist Organization and Jewish Agency for Israel.
- MERCAZ represents Masorti Judaism within the World Zionist Organization and Congress, the Jewish Agency for Israel, and Jewish National Fund. We advocate for funding of pluralistic streams of Judaism in Israel crucial to our movement’s growth in Israel and around the world.
- **Canadian Foundation for Masorti Judaism supports our movement directly.** CFMJ is committed to halakhah and history, combining Jewish law and tradition with an open approach to Jewish life. **CFMJ supports the work of the Masorti Movement, raising funds to enable the Movement to further its educational and outreach activities in Israel.**
- MERCAZ member contact information is used to register our members to vote every five years at the World Zionist Congress.²⁹
- “MERCAZ-Canada and Canadian Foundation for Masorti Judaism work in cooperation to foster and strengthen Masorti/Conservative Judaism in Israel and create engagement opportunities [for] Jews living in Israel and the Diaspora, based

²⁷ MERCAZ Canada (mercazolami.org)

²⁸ Mercaz.ca (accessed September 12, 2024.)

²⁹ Donate to Masorti – MERCAZ-Canada/Canadian Foundation for Masorti Judaism (archive.org)

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on the ideals of tradition and tolerance, study and spirituality, and social action and love of Israel.”

- The Canadian Foundation for Masorti Judaism supports the work of the Masorti Movement in Israel which promotes scholarship, Zionism and religious tolerance and pluralism within the context of modern Israeli society. **The Foundation raises funds to support Masorti programmes in Israel through the Movement and in its synagogue centres.**³⁰

Operating as a conduit: review of the Organization’s books and records

We note that the Organization has provided us with “allocation” letters that it sends to non-qualified donees when it transfers the funds the Organization had collected on its behalf. We will discuss these letters in detail in Section 2: “Failed to devote resources to charitable activities carried on by the Organization itself”. However, it appears that the Organization uses these letters to advise the non-qualified donees of the Canadian donor that the Organization is gifting on behalf of. Directly after identifying the amount gifted is the line, “this represents donations from...”, followed by the names of individuals or organizations. It appears that the Organization is simply collecting donations on behalf of non-qualified donees.

For example:

- in the letter dated November 23, 2020, to [24 (1)], the Organization writes, “\$1350. These funds represent a gift from Congregation Beth Shalom, Edmonton.”
- in the letter dated November 23, 2020, [24 (1)] the Organization writes, “\$3690.00. These funds represent a gift from the Nathan & Lily Silver Foundation.”
- in the letter dated November 23, 2000, [24 (1)] the Organization writes, “10,000 and \$2130. These funds represent gifts [24 (1)] [24 (1)] (monthly giving), the Silver Foundation (\$1400), [24 (1)] (\$18), The Davis Foundation (\$514), the Baker Foundation (\$10,000), and Rabbi David Seed’s [24 (1)] Fund (\$360).”

In summary

Based on the above audit findings, it appears that the Organization is not constituted and operated exclusively for charitable purposes.

The audit has revealed that the Organization is carrying on an unstated collateral non-charitable purpose. The Organization is purposefully acting as a conduit for non-qualified donees in Israel. Additionally, it has co-mingled its charitable resources with MERCAZ-Canada, a non-qualified donee in Canada. Together, the Organization and MERCAZ-Canada are acting as the fundraising arm of the Masorti Movement in Israel and gifting funds to non-qualified donees.

³⁰ Viewed on December 14, 2023. [https://merI got \\$3,599,078 based on the numbers above.caz.ca/](https://merI got $3,599,078 based on the numbers above.caz.ca/)

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Accordingly, the Organization has failed to meet the requirements of subsection 149.1(1) of the Act that it be constituted and operated exclusively for charitable purposes. For this reason, we are proposing to revoke the Organization's charitable status under paragraph 168(1)(b) of the Act.

2. Failed to devote resources to charitable activities carried on by the Organization itself

The audit found that the Organization failed to demonstrate that it devoted its resources to its own charitable activities in the following ways:

- i) Lacked direction and control over its own resources
- ii) Gifted to non-qualified donees
- iii) Delivered non-incidental private benefits
- iv) Conferred undue benefits on a person

Legislation and jurisprudence

i) Lacked direction and control over its own resources

As stated above, during the audit period the Act allowed a registered charity to carry out its charitable purposes in two ways:

- on its own charitable activities – undertaken by the charity itself or under its continued supervision, direction and control (i.e. through an intermediary)
- by gifting to qualified donees as defined in the Act.

Carrying on one's own activities implies that the charity is an active and controlling participant in a program or project that directly achieves a charitable purpose. While a charity can carry out its own activities through an intermediary acting on its behalf, a charity must direct and control the use of its resources. It cannot act as a conduit that merely funnels resources to a non-qualified donee.

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. A charity must maintain, as part of its books and records, an account of steps taken to direct and control the use of its resources. The books and records should be sufficiently detailed to allow the CRA to verify that all of the charity's resources have been used for its own activities.³¹

³¹ For more information, see CRA Guidance CG-002, Canadian registered charities carrying out activities outside Canada and CRA Guidance CG-004, Using an intermediary to carry out a charity's activities within Canada.

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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.³²

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.³³

As re-iterated by the Court in *Lepletot v MNR*,³⁴ 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 law requires that the intermediary actually conduct those activities on the organization's behalf. Likewise, the Court in *Canadian Magen David Adom for Israel v MNR* 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.³⁵

Accordingly, 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.

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

³² *Canadian Committee for the Tel Aviv Foundation v Canada*, 2002 FCA 72 at para 30, Rothstein JA

³³ *Canadian Committee for the Tel Aviv Foundation v Canada*, 2002 FCA 72 at para 40, Rothstein JA.

³⁴ *Bayit Lepletot v Canada (MNR)*, 2006 FCA 128 at para 5

³⁵ *Canadian Magen David Adom for Israel v Canada (MNR)*, 2002 FCA 323 at para 66, Létourneau JA.

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effective way to help a charity 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 it established an actual, real, ongoing, active relationship with the intermediary.³⁶

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 a charity is providing resources to a nonqualified donee which would be in contravention of the Act.

ii) Gifted to non-qualified donees

A qualified donee means a person, as defined in subsection 149.1(1) of the Act, that is

- (a) registered by the Minister and that is
 - (i) a housing corporation resident in Canada constituted exclusively to provide low-cost housing accommodation for the aged,
 - (ii) a municipality in Canada,
 - (iii) a municipal or public body performing a function of government in Canada,
 - (iv) a university outside Canada, the student body of which ordinarily includes students from Canada,
 - (v) a foreign charity to which His Majesty in right of Canada has made a gift,
- (b) a registered charity,
- (b.1) a registered journalism organization,
- (c) a registered Canadian amateur athletic association, or
- (d) His Majesty in right of Canada, or a province, the United Nations or an agency of the United Nations.

Entities not expressly stated in this list are not qualified donees.

iii) Delivered non-incidentally private benefits

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

At common law, a private benefit³⁷ means a benefit provided to a person or organization that is not a charitable beneficiary, or a charitable beneficiary where a benefit goes beyond what is considered to be charitable. Private benefits can be conferred on a

³⁶ Canadian Committee for the Tel Aviv Foundation v Canada, 2002 FCA 72 at para 30.

³⁷ **Personal benefit** is also sometimes used instead of **benefit** in the common law private benefit context; See CRA Guidance CG-019, *How to draft purposes for charitable registration*.

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charity's staff, directors, trustees, members, an/or volunteers while they are carrying out activities that support the charity, or to third parties who provide the charity with goods or services. Where it can be fairly considered that the eligibility of a recipient relates solely to the relationship of the recipient to an organization, any resulting benefit will not be acceptable.

Providing a private benefit is unacceptable unless it is **incidental** to accomplishing a charitable purpose. A private benefit will usually be incidental where it is **necessary**, **reasonable**, and **proportionate** to the resulting public benefit.³⁸

Necessary – necessary means legitimately and justifiably resulting from:

- (a) an action taken to achieve a charitable purpose; or
- (b) a necessary step, a consequence, or a by-product of an action taken to achieve a charitable purpose; or
- (c) the operation of a related business as defined in subsection 149.1(1) of the Act.

and

Reasonable – reasonable means related to the charitable need and no more than is needed to achieve the purpose, and fairly and rationally assessed and distributed.

and

Proportionate – proportionate means the private benefit cannot be a substantial part of a purpose or activity, or be a non-charitable end in itself. The private benefit must be secondary and the public benefit must be predominant and more significant.

The public benefit cannot be too speculative, indirect or remote, as compared to a more direct private benefit, particularly when a direct benefit is to private persons, entities, or businesses.

Examples of unacceptable (not incidental) private benefit might include:

- paying for excessive salaries/remuneration
- paying for expenses, or providing benefits that are not justified or needed to perform required duties
- providing excessive per diems
- unjustified/unnecessary or excessive payments for services, facilities, supplies, or equipment
- promoting the work, talent, services, or businesses of certain persons or entities, without justification

³⁸ For more information, see CRA Policy statement CPS-024, *Guidelines for registering a charity: Meeting the public benefit test*.

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iv) Conferred an undue benefit to a person

Pursuant to subsection 149.1(1) of the Act, as a charitable organization, no part of the Organization's income can be payable to, or otherwise made available for, the personal benefit of any proprietor, member, shareholder, trustee or settlor thereof. Any portion of a charitable organization's income that is received by such a person would be an unacceptable private benefit.

Typically, private benefits that are unacceptable under the common law will also be undue under subsection 188.1(5) of the Act. An undue benefit means a benefit provided by a registered charity, registered Canadian amateur athletic association (RCAAA), or a third party at the direction, or with the consent of, a charity or RCAAA that would otherwise have had a right to that amount. An undue benefit includes a disbursement by way of a gift or the amount of any part of the income, rights, property or resources of the charity or RCAAA that is paid, payable, assigned or otherwise made available for the personal benefit of any person who:

- (a) is a proprietor, member, shareholder, trustee or settlor of the charity or RCAAA;
- (b) has contributed or otherwise paid into the charity or RCAAA more than 50% of the capital of the charity or RCAAA; or
- (c) does not deal at arm's length with a person in (a) or (b), or with the charity or RCAAA.

An undue benefit does not include:

- (a) a gift to a qualified donee;
- (b) reasonable consideration or remuneration for property acquired or services received by the charity or RCAAA;
- (c) a gift made, or a benefit provided, in the course of a charitable act³⁹ in the ordinary course of the charitable activities carried on by the charity or RCAAA, unless it can be reasonably considered that the beneficiary was eligible for the benefit solely due to the relationship of the beneficiary to the charity or RCAAA.

Subsection 188.1(4) of the Act provides for the levying of a penalty to registered charities under specific circumstances. Under the Act, a registered charity cannot confer on a person an undue benefit (for example, a transfer of property or other resources of the charity to a person who does not deal with the charity at arm's length or who is the beneficiary of a transfer because of a special relationship with a donor or charity.)

Under subsection 188.1(4) of the Act, a registered charity that confers on a person an undue benefit is liable to a penalty equal to 105% of the amount of the benefit. This penalty increases to 110% and the suspension of tax-receipting privileges for a repeat infraction within 5 years.

³⁹ While charitable act is not defined in the Act, it is considered to refer to an activity that itself provides a charitable benefit to an eligible beneficiary.

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Audit findings**i) Lacked direction and control over its own resources**

On its Form T3010, *Registered Charity Information Return* (Form T3010) for both audit years, the Organization identified two individuals (referred to as trustees) who conduct its programs outside of Canada: 19 (1) During the audit interview, the Organization stated 19 (1) and 19 (1) Although the Organization stated that these individuals ensure the funds are sent to the Organization's account in Israel and are then distributed to the correct programs, the Organization did not provided us with any information to demonstrate that it was using intermediaries to conduct its own activities outside of Canada.

Rather, as mentioned above, it appears that the Organization acted as a conduit by purposefully acting as a Canadian fundraiser for several non-qualified donees. The Organization did not provide the CRA with any documentation to support that it maintained direction and control over how the non-qualified donees used these gifted funds.

The previous audit identified that the Organization failed to maintain direction and control over the use of its resources, and specifically cautioned the Organization of acting as a conduit. The Organization agreed to rectify this non-compliance by entering into a Compliance Agreement.

The current audit revealed that the Organization is transferring funds to various non-qualified donees in Israel that are carrying out their own activities. The non-qualified donees annually request funds from the Organization by submitting an Allocation Request Form. The Organization appears to have no role in any of the activities other than providing funding.

The Organization provided us with funding allocation letters addressed to agents, dated November 23, 2020, and February 7, 2021, as well as letters directly addressed to the non-qualified donees. Eight individual letters were provided for the 2021 fiscal year, and seven for 2020. The letters advised the non-qualified donees that funds had been wired to them, who the Canadian donors are, and that the non-qualified donees need to complete the program reporting form to explain how the funds were disbursed. The non-qualified donees were also told to provide budgets and source documentation, and were advised that the funds are to be kept separate from their general account. However, the Organization only provided the CRA with reports from two of the non-qualified donees, and these two reports did not demonstrate that the Organization had direction and control over its resources.

As mentioned above, during the audit period the Organization's website stated the following information:

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The Masorti Movement in Israel is a pluralistic, religious movement in Israel affiliated with Masorti/Conservative Judaism around the world. The Canadian Foundation for Masorti Judaism supports the work of the Masorti Movement in Israel which promotes scholarship, Zionism and religious tolerance and pluralism within the context of modern Israeli society. **The Foundation raises funds to support Masorti programmes in Israel through the Movement and in its synagogue centres.** Your donation helps to ensure that our work may continue.⁴⁰

ii) Gifted non-qualified donees

Our audit revealed that the Organization gifted its charitable resources to the following non-qualified donees:

Hod Vehadar⁴¹

The Organization gifted \$561⁴² in 2020 and \$821⁴³ in 2021. According to Hod Vehadar's website, it is the leading Masorti synagogue in Israel's central region.⁴⁴

We note that Hod V'hadar's website indicates that donations can be made through the Masorti Foundation⁴⁵, which then directs Canadian donors to the Organization's website to receive a Canadian tax receipt⁴⁶.

Masorti Movement

The Organization gifted \$7,636⁴⁷ for three projects in 2020 and \$6,771⁴⁸ for three projects in 2021. The Masorti Movement in Israel is the headquarters of various organizations and programs of Masorti/Conservative Judaism.⁴⁹

Yedid Nefesh

The Organization gifted \$7,500⁵⁰ in 2020 and \$9,012⁵¹ in 2021. Yedid Nefesh is a synagogue located in Israel.⁵²

⁴⁰ Viewed on December 13, 2023. <https://web.archive.org/web/20211127143521/https://mercaz.ca/donate-masorti/>

⁴¹ Sometimes spelled Hod VeHadar or Hod V'hadar.

⁴² \$561(CAN) on November 19, 2020.

⁴³ \$821(CAN) on January 31, 2022.

⁴⁴ עמוד הבית - English | Hod <https://hodvehadar.org/en/VeHadar> (accessed September 25, 2024).

⁴⁵ Donate | Hod <https://hodvehadar.org/en/donate-en/VeHadar> (accessed September 26, 2024).

⁴⁶ Donate to M <https://www.masorti.org.il/donations/asorti> - התנועה המסורתית (accessed September 26, 2024).

⁴⁷ \$7,636(CAN) on November 19, 2020.

⁴⁸ \$6,771(CAN) on January 31, 2022.

⁴⁹ About Masorti - התנועה <https://www.masorti.org.il/about> <https://www.masorti.org.il/about-masorti/t-masorti> - המסורתית (accessed September 26, 2024.)

⁵⁰ \$7,500(CAN) on November 19, 2020.

⁵¹ \$9,012(CAN) on January 31, 2022.

⁵² Kehilat Yedid Nefesh Synagogue <https://modiinapp.com/en/page/369/kehilat-yedid-nefesh-synagogue-masorti> (Masorti) - ModiinApp (accessed September 26, 2024.)

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Ya'ar Ramot

The Organization gifted \$1,350⁵³ in 2020 and \$1,955⁵⁴ in 2021. Ya'ar Ramot appears to be a synagogue located in Israel.⁵⁵

Hannaton Education Center

The Organization gifted \$1,220⁵⁶ in 2020 and \$11,220⁵⁷ in 2021. Hannaton Education Center was originally founded by the Masorti movement and is located in Israel.⁵⁸

Ramot Zion

The Organization gifted \$3,690⁵⁹ in 2020 and \$3,690⁶⁰ in 2021. Ramot Zion is a synagogue located in Israel.⁶¹

Netzach Yisrael

The Organization gifted \$12,130⁶² for two projects in 2020 and \$11,178⁶³ in 2021. Netzach Yisrael is a synagogue in Israel.⁶⁴

Torat Hayyim

The Organization gifted \$2,214⁶⁵ in 2021. Torat Hayyim is a synagogue in Israel.⁶⁶

The Organization failed to demonstrate direction and control over its charitable resources; rather, it appears the Organization transferred its charitable resources to non-qualified donees, who then used the resources for their own activities.

iii) Delivered non-incident private benefits

Based on the information listed in the section above, during the audit period the Organization gifted \$34,648 in 2020, and \$46,861 in 2021, totaling \$81,509, of its charitable resources to non-qualified donees.

⁵³ \$1,350(CAN) on November 19, 2020.

⁵⁴ \$1,955(CAN) on January 31, 2022.

⁵⁵ Jerusalem's Masorti Movement: Fading future - The Jerusalem <https://www.jpost.com/in-jerusalem/jeruselems-masorti-movement-fading-future-613744Post> (jpost.com) (accessed September 26, 2024.)

⁵⁶ \$1,220(CAN) on November 19, 2020.

⁵⁷ \$11,220(CAN) on January 31, 2022.

⁵⁸ About Us - מדרשת הנתן - Hannaton Educational Center (echannaton.org/en/about-2/nnaton.org) (accessed September 25, 2024).

⁵⁹ \$3,690(CAN) on November 19, 2020.

⁶⁰ \$3,690(CAN) on January 31, 2022.

⁶¹ Ramot Zion – KBY Congregations Toge <https://kbyonline.org/synagogues/ramot-zionther> | Kehillot B'Yachad (kbyonline.org) (accessed September 26, 2024.)

⁶² \$12,130(CAN) on November 19, 2020.

⁶³ \$11,178(CAN) on January 31, 2022.

⁶⁴ Kehillat Netzach Israel – KBY Congregations <https://kbyonline.org/synagogues/kehillat-netzach-israelTogether> | Kehillot B'Yachad (kbyonline.org) (accessed September 26, 2024.)

⁶⁵ \$2,214(CAN) on January 31, 2022.

⁶⁶ Kehillat Torat H <https://kbyonline.org/synagogues/kehillat-torat-hayyimayyim> – KBY Congregations Together | Kehillot B'Yachad (kbyonline.org) (accessed September 26, 2024.)

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As the Organization is unable to demonstrate with supporting documentation that the referenced transfers to non-qualified donees were made in furtherance of its own charitable purposes, it is our opinion that each of the non-qualified donees received non-incident private benefits where they receive the funds from the Organization.

It is our view that the Organization failed to meet all three of the above-noted conditions that must be met in order for private benefit to be considered acceptable.⁶⁷

Table 1: Non-incident private benefits provided by the Organization during the fiscal period January 1 to December 31, 2020

Non-incident private benefit - 2020	Amount
Hod VeHadar	\$561
Hod V'Hadar	\$561
Masorti Movement	\$7,636
Yedid Nefesh	\$7,500
Ya'ar Ramot	\$1,350
Hannaton Education Centre	\$1,220
Ramot Zion	\$3,690
Netzach Yisrael	\$12,130
Total 2020	\$34,648

Table 2: Non-incident private benefits provided by the Organization during the fiscal period January 1 to December 31, 2021

Non-incident private benefit - 2021	Amount
Hod V'Hadar	\$821
Masorti Movement	\$6,771
Yedid Nefesh	\$9,012
Ya'ar Ramot	\$1,955
Hannaton Education Centre	\$11,220
Ramot Zion	\$3,690
Netzach Yisrael	\$11,178
Torat Hayyim	\$2,214
Total 2021	\$46,861

iv) Conferred an undue benefit to a person

As outlined above, it is our view that the Organization provided unacceptable non-incident private benefits when it transferred its resources to various non-qualified

⁶⁷ That is, necessary, reasonable, and proportional.

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donees. In our view, the above unacceptable non-incidental private benefits also meet the definition of undue benefits for the following reasons:

1. The gifted funds were not reasonable consideration for property acquired or services received by the Organization.
2. The gifted funds were not made in the course of charitable acts.
3. The gifted funds were not given to qualified donees.

As such, the gifted funds can be considered undue benefits per the definition of “undue benefits” provided in subsection 188.1(5) of the Act. Therefore, the Organization may be liable to a penalty equal to 105% of the amount of the benefit. Please see Table 3 below for a calculation of the total penalty for the undue benefit.

Table 3: Total undue benefits conferred by the Organization

Fiscal period	Amount
2020	\$34,648
2021	\$46,861
Total Undue Benefit	\$81,509

The table below details the calculation of the penalty we are proposing to assess:

Fiscal period ending	Type of sanction	Sanction %	Sanctioned amount	Sanction
2020	Undue Benefit	105%	\$34,648	\$36,380.40
2021	Undue Benefit	105%	\$46,861	\$49,204.05
			\$81,509	\$85,584.45

In summary

Based on the above audit findings, we are considering revoking and/or penalizing the Organization for not devoting its resources to charitable activities carried on by the Organization itself.

It is our view that the Organization did not maintain direction and control over its charitable activities and its charitable resources. Rather, the Organization gifted funds to non-qualified donees and provided unacceptable non-incidental private benefits. As a result, the Organization has failed to meet the requirements of subsection 149.1(1) of the Act. As such, there are grounds for the Minister to revoke the charitable status of the Organization in the manner described under paragraph 168(1)(b) of the Act.

While the Organization’s activities were considered with respect to the change in legislation to allow for qualified disbursements, they would not meet the legislative requirements as the Organization is simply acting as a conduit by gifting charitable resources to other non-qualified donees.

Financial sanction proposed

Additionally, it is our view that the above-mentioned unacceptable non-incidental private benefits are also considered to be undue benefits as defined in subsection 188.1(5) of the Act. As such, there may also be grounds for the Minister to sanction the Organization under subsection 188.1(4) of the Act.

3. Failed to maintain adequate books and records

Subsection 230(2) of the Act requires that every registered charity shall maintain adequate 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, and to ensure the CRA can verify the accuracy of reported information through an audit and determine whether there are any grounds for revocation of the charity's registration.

Subsection 231.1(1) of the Act permits an authorized person to inspect, audit, or examine the books and records of a taxpayer, as well as any document of the taxpayer, or of any person that relates, or may relate, to the information that is, or should be, contained in the books and records of the taxpayer, or to any amount payable by the taxpayer under the Act.

In order to meet these requirements, a charity's books and records must allow the CRA to verify the charity's revenues and expenses, as well as any ODRs it may have issued. Further, the Act requires that a charity's records contain such information to allow the CRA to determine whether the charity's activities continue to be charitable at law.

Subsection 230(4) of the Act also states that every person required by this section to keep records and books of account shall retain:

- (a) the records and books of account referred to in this section in respect of which a period is prescribed, together with every account and voucher necessary to verify the information contained therein, for such period as is prescribed; and
- (b) all other records and books of account referred to in this section, together with every account and voucher necessary to verify the information contained therein,

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until the expiration of six years from the end of the last taxation year to which the records and books of account relate.

The requirement relating to the maintenance of books and records, and books of account, is based on several court decisions, which have held, among other things, that:

- The onus is on the registered charity to prove that its charitable status should not be revoked.⁶⁸
- A registered charity must maintain, and make available to the CRA at the time of an audit, meaningful books and records, regardless of its size or resources. It is not sufficient to supply the required books and records at some later date.⁶⁹
- Paragraph 168(1)(e) of the Act provides that the Minister may propose to revoke registration of a charitable organization if it fails to comply with, or contravenes, any of sections 230 to 231.5 of the Act, and the Federal Court of Appeal has determined that non-compliance with section 230(2) of the Act is a proper basis upon which the Minister may issue such a notice.⁷⁰
- The requirement to keep proper books and records is foundational and non-compliance with the requirement is serious and justifies revocation.⁷¹

Given the significant privileges that flow from registration as a charitable organization under the Act, the Minister must be able to monitor the continuing entitlement of charitable organizations to those privileges. In that regard, the Federal Court of Appeal has held that there exists a serious obligation for registered charities to maintain adequate books and records,⁷² and that material or significant and/or repeated, non-compliance with the requirements of subsection 230(2) of the Act constitutes sufficient grounds for revocation.⁷³

Additionally, if a registered charity has not complied with paragraph 230(2)(a) of the Act, it may be subject to a suspension of its qualified donee status for one year under paragraph 188.2(2)(a) of the Act.

Audit findings

The previous audit identified that the Organization failed to maintain adequate books and records. The Organization acknowledged this non-compliance and agreed to rectify the issue by entering into a Compliance Agreement with the CRA; this agreement stated that failure to maintain proper books and records is sufficient reason to revoke an

⁶⁸ The Canadian Committee for the Tel Aviv Foundation v. Canada 2002 FCA 72.

⁶⁹ *ibid.* See also The Lord's Evangelical Church of Deliverance and Prayer of Toronto v. Canada 2004 FCA 397.

⁷⁰ Opportunities for the Disabled Foundation v. Canada (National Revenue) 2016 FCA 94; and Ark Angel Foundation v. Canada (National Revenue) 2019 FCA 21.

⁷¹ Jaamiah Al Uloom Al Islamiyyah Ontario v. Canada (National Revenue) 2016 FCA 49, paragraph 15; and Ark Angel Foundation v. Canada (National Revenue) 2019 FCA 21, paragraph 43.

⁷² Humane Society of Canada for the Protection of Animals and the Environment v. Canada (National Revenue) 2015 FCA 178, paragraph 80.

⁷³ Ark Angel Foundation v. Canada (National Revenue) 2019 FCA 21, paragraph 43.

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organization's charitable status. Based on our review of the current audit, the Organization did not maintain adequate books and records.

The current audit revealed that the Organization failed to maintain and to provide sufficient books and records. As such, the CRA was not able to verify the income, expenses, donations, and use of charitable resources.

The following is a non-comprehensive list of our concerns:

- As stated above, the Organization failed to provide documentation indicating that it maintained direction and control over the use of its funds and resources, and it therefore appears to be operating as a conduit to funnel resources to non-qualified donees.
- The Organization indicated that it held bank accounts in Israel; however, it failed to provide bank statements, which are part of a charity's books and records and must be maintained.
- The previous audit found that the Organization's meeting minutes were vague in detail and did not demonstrate the Organization's governance. As part of the corrective measures outlined in the Compliance Agreement, the Organization agreed to maintain signed and certified copies of meeting minutes demonstrating that the Board of Directors hold their own meetings and make informed decisions regarding the Organization's participation in the activities.

The current audit found repeated non-compliance of this issue. The Organization's board meetings minutes included attendance and input from directors of MERCAZ-Canada; lacked details of decision-making processes for programs and fund allocations; and lacked any budget discussions or reports from fund beneficiaries.

It appears the Organization has failed to implement the corrective measures.

- The previous audit found that the summary of the total ODRs issued did not reconcile to the amount reported on line 4500 of its Form T3010. Line 4500 is the total eligible amount of all gifts for which the charity issued tax receipts. As per the Compliance Agreement, the Organization agreed to report the total of all receipted donations on line 4500 of its Form T3010, and agreed to provide all of the ODRs and summary to the accountant for review and reporting.

The current audit shows repeated non-compliance of this issue. The Organization failed to provide accurate donation receipt listings that reconciled with line 4500 of its Form T3010 during the audit period. It appears the Organization either incorrectly reported the amount on line 4500 or failed to maintain accurate documentation in its books and records for tax receipts issued by the Organization.

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For example, the donation receipt listing for the 2021 fiscal period contained \$18,346 in donations; however, this included donations where CanadaHelps was listed as the source. When CanadaHelps donations were removed, the listing totaled \$5,004. Line 4500 of the Form T3010 for the 2021 fiscal period reported \$12,686 in tax received donations. As such, a material variance is observed in either scenario. Please see the Table 4 below for a calculation of the variance.

Table 4 : Received donations

Total received donation amount per Donation List	\$18,346.77
Total donation amount per line 4500 T3010	\$12,686.00
Variance	\$5,660.77
Total received donation amount per Donation List without Canada Helps	\$5,004.00
Total donation amount per line 4500 T3010	\$12,686.00
Variance	(\$7,682.00)

It appears that the Organization has failed to implement the corrective measures needed to address the previous audit findings.

- The Organization reported \$902 on line 4140 of its Form T3010 for both the 2020 and 2021 fiscal periods. Line 4140 is Long-term investments. The Form T3010 reconciliation submitted by the Organization reconciles this amount to general ledger account 1010 Status of Israel Bonds. When supporting documentation was requested, the Organization reported that they have no active bonds. Clarification was requested as to the nature of this investment or when the bond was transferred; however, no further information was provided.

It appears that the Organization failed to maintain proper books and records to demonstrate ownership of assets as required.

In summary

It is our view that the Organization failed to either maintain adequate books and records or to make records available to the CRA during our audit. Additionally, as the Organization had entered into a Compliance Agreement to maintain adequate books and records, and make them available to the CRA, it is our view that the current audit findings constitute repeat serious and material non-compliance.

Under paragraph 168(1)(e) of the Act, the registration of a charity may be revoked if it fails to comply with, or contravenes, subsection 230(2) of the Act. For this reason, there are grounds for revocation of the Organization's charitable status under paragraph 168(1)(e) of the Act.

Suspension proposed

In addition, it is our view that the Organization has failed to comply with subsection 230(2) of the Act. Under paragraph 188.2(2)(a) of the Act, the Minister may suspend the Organization's authority to issue ODRs for one year.

4. Failed to issue donation receipts in accordance with the Act and/or its Regulations

Pursuant to subsection 118.1(2) of the Act, a registered charity can issue tax receipts for income tax purposes for donations that legally qualify as gifts. The Act requires the registered charity to ensure that the information on its ODRs is accurate and that the ODRs contain the required information listed in Regulation 3501 of the Act.

A registered charity may only issue ODRs for gifts it receives, which the registered charity is responsible for using to further its own charitable purposes.⁷⁴ A registered charity cannot ODRs on behalf of other entities.

Audit findings

The audit revealed that the Organization has failed to issue ODRs in accordance with the Act and its Regulations.

1. With respect to the Organization's official donation receipt listing for the 2021 fiscal period, it contained gaps in the numbering sequence. When requesting copies of the ODRs for the excluded receipt numbers in the sequence, the Organization provided receipts for donations received in the 2022 fiscal period. Receipt numbering should be sequential and ODRs should be issued in order of the donations received, and not alternate between fiscal periods.

In addition, the Organization's ODRs were missing the charity's full address in Canada as recorded with the CRA. The address listed is incomplete as the city, province and postal code were not included.

2. The Organization's ODRs contain a logo that includes the name of another organization, MERCAZ, which is a non-qualified donee. "MERCAZ" appears prominently in bold above "Masorti", along with what appears to be the slogan of MERCAZ-USA, "The Zionist Organization of the Conservative/Masorti Movement" encircling it all. The requirements regarding the content of ODRs, as per subsection 3501(1) of the Regulations, state that it must contain the "name and address in Canada of the organization as recorded with the Minister". By including the name of MERCAZ, and the logo of MERCAZ-USA, it appears that the Organization is indicating that any funds donated to it are also being donated to MERCAZ.

⁷⁴ See CRA website "Charities and Giving: Operating a registered charity – receiving gifts".

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In summary

Under paragraph 168(1)(d), the Minister may, by registered mail, give notice to the registered charity that the Minister proposes to revoke its registration if it issues a receipt otherwise than in accordance with the Act and its Regulations. It is our position, as outlined above, that the Organization has not issued receipts in accordance with the Act and/or its Regulations. For this reason, there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(d) of the Act.

Overall conclusion

Due to the nature and extent of the non-compliance issues described above, it is our view that there are grounds for the Minister to revoke the charitable status of the Organization based on the following paragraphs of the Act:

- 168(1)(b) for failure to be constituted and operated exclusively for charitable purposes.
- 168(1)(b) for failure to devote resources to charitable activities.
- 168(1)(d) for failure to issue donation receipts in accordance with the Act and/or its Regulations.
- 168(1)(e) for failure to maintain adequate books and records.

We are also proposing that the following penalties be applied based on the following subsections of the Act:

- 188.1(4) for the undue benefits conferred.

We are also proposing to suspend the Organization's tax-receipting privileges based on the following paragraphs of the Act:

- 188.2(2)(a) for failing to meet the requirements of subsection 230(2) of the Act.

The Organization's options:**a) Respond**

If the Organization chooses to respond, send written representations and any additional information regarding the findings outlined above **within 30 days** from the date of this letter to the address below. After considering the response, we will decide on the appropriate course of action. The possible actions include:

- no compliance action;
- issuing an educational letter;
- resolving the issues through a Compliance Agreement;

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- applying penalties or suspensions or both, as described in sections 188.1 and 188.2 of the Act; or
- issuing a notice of intention to revoke the registration of the Organization in the manner described in subsection 168(1) of the Act.

b) Do not respond

The Organization may choose not to respond. In that case, we may issue a notice of intention to revoke the registration of the Organization in the manner described in subsection 168(1) of the Act.

The Act provides the Minister the discretion to revoke a charity's registration. Section 168 of the Act describes the manner in which the Minister may revoke a charity's registration. In accordance with subsection 168(1) of the Act, when proposing to revoke, the charity is given notice by registered mail of the Minister's intention to revoke the charity's registration. The charity's registration is not revoked until a copy of the notice is published in the *Canada Gazette*. Paragraph 168(2)(b) of the Act allows the Minister to publish the notice in the *Canada Gazette* any time after the expiration of 30 days from the date of the mailing of the notice.

After considering the Organization's response to this letter, the Minister may decide to exercise her authority to revoke its charitable registration. If so, the Minister will issue a notice of intention to revoke the Organization's registration and will indicate in the notice whether the Minister intends to publish the notice in the *Canada Gazette* immediately after the expiration of 30 days from the date of the mailing of the notice.

If you appoint a third party to represent you in this matter, please send us a written authorization with the party's name, contact information, and clearly specify the appropriate access granted to the party to discuss the file with us. For more information on how to authorize a representative, go on our website at canada.ca/en/revenue-agency/services/forms-publications/forms/aut-01.

If you have any questions or require further information or clarification, do not hesitate to contact me at the numbers below. My team leader, Shaunessy Fawthrop, may also be reached at 902-222-9869.

Yours sincerely,

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Telephone: 1-782-640-6743
Facsimile: 1-902-450-8556
Address: PO Box 638 Stn Central
Halifax NS B3J 2T5

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The CRA collects personal information in order to administer or enforce the Act and related programs and activities. The CRA may use or disclose the information it collects to administer or enforce other federal acts that provide for the imposition and collection of a tax or duty. In addition, collected information may also be disclosed to other federal, provincial, territorial, or foreign government institutions to the extent authorized by law. Failure to provide information requested by the CRA may result in the assessment of interest and/or penalties, or other compliance enforcement actions. Under the *Privacy Act*, individuals have a right of protection, access to, and correction of, their personal information, or to file a complaint with the Privacy Commissioner of Canada with respect to the handling of their personal information. Please refer to Personal Information Bank CRA PPU 200 on Information about Programs and Information Holdings at canada.ca/cra-information-about-programs or canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra/access-information-privacy-canada-revenue-agency/info-source-appendix.html.

ATIP Disclosure
Divulgence de l'AIPRP

APPENDIX A

Qualified Donees

149.1 (1) Definitions

charitable foundation means a corporation or trust that is constituted and operated exclusively for charitable purposes, no part of the income of which is payable to, or is otherwise available for, the personal benefit of any proprietor, member, shareholder, trustee or settlor thereof, and that is not a charitable organization

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

(a) constituted and operated exclusively for charitable purposes,

(a.1) all the resources of which are devoted to charitable activities carried on by the organization itself or to making qualifying disbursements,

(b) no part of the income of which is payable to, or is otherwise available for, the personal benefit of any proprietor, member, shareholder, trustee or settlor thereof,

(c) more than 50% of the directors, trustees, officers or like officials of which deal at arm's length with each other and with

(i) each of the other directors, trustees, officers and like officials of the organization,

(ii) each person described by subparagraph (d)(i) or (ii), and

(iii) each member of a group of persons (other than Her Majesty in right of Canada or of a province, a municipality, another registered charity that is not a private foundation, and any club, society or association described in paragraph 149(1)(l)) who do not deal with each other at arm's length, if the group would, if it were a person, be a person described by subparagraph (d)(i), and

(d) that is not, at the particular time, and would not at the particular time be, if the organization were a corporation, controlled directly or indirectly in any manner whatever

(i) by a person (other than Her Majesty in right of Canada or of a province, a municipality, another registered charity that is not a private foundation, and any club, society or association described in paragraph 149(1)(l)),

(A) who immediately after the particular time, has contributed to the organization amounts that are, in total, greater than 50% of the capital of the organization immediately after the particular time, and

(B) who immediately after the person's last contribution at or before the particular time, had contributed to the organization amounts that were, in total, greater than 50% of the capital of the organization immediately after the making of that last contribution, or

(ii) by a person, or by a group of persons that do not deal at arm's length with each other, if the person or any member of the group does not deal at arm's length with a person described in subparagraph (i)

qualified donee, at any time, means a person that is

- (a) registered by the Minister and that is
 - (i) a housing corporation resident in Canada and exempt from tax under this Part because of paragraph 149(1)(i) that has applied for registration,
 - (ii) a municipality in Canada,
 - (iii) a municipal or public body performing a function of government in Canada that has applied for registration,
 - (iv) a university outside Canada, the student body of which ordinarily includes students from Canada, that has applied for registration, or
 - (v) a foreign charity that has applied to the Minister for registration under subsection (26),
- (b) a registered charity,
 - (b.1) a registered journalism organization,
- (c) a registered Canadian amateur athletic association, or
- (d) Her Majesty in right of Canada or a province, the United Nations or an agency of the United Nations.

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 that are qualifying disbursements, amounts the total of which is at least equal to the organization's disbursement quota for that year; or
- (c) makes a disbursement, other than
 - (i) a disbursement made in the course of charitable activities carried on by it, or
 - (ii) a qualifying disbursement.

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 that are qualifying disbursements, amounts the total of which is at least equal to the foundation's disbursement quota for that year;
- (b.1) makes a disbursement, other than

- (i) a disbursement made in the course of charitable activities carried on by it, or
 - (ii) a qualifying disbursement;
- (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 that are qualifying disbursements, amounts the total of which is at least equal to the foundation's disbursement quota for that year;
 - (b.1) makes a disbursement, other than
 - (i) a disbursement made in the course of charitable activities carried on by it, or
 - (ii) a qualifying disbursement;
- (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 (as defined in subsection 163.2(1)) was made in circumstances amounting to culpable conduct (as defined in subsection 163.2(1)) 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 are qualifying disbursements to qualified donees or grantee organizations, with which it deals at arm's length;

(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; and

(f) of a registered charity, if it accepts a gift from a foreign state, as defined in section 2 of the State Immunity Act, that is set out on the list referred to in subsection 6.1(2) of that Act.

149.1(4.2) Revocation of registration of Canadian amateur athletic association

The Minister may, in the manner described in section 168, revoke the registration of a registered Canadian amateur athletic association

(a) for any reason described in subsection 168(1);

(b) if the association carries on a business that is not a related business of that association;

(c) if an ineligible individual is a director, trustee, officer or like official of the association, or controls or manages the association, directly or indirectly, in any manner whatever; or

(d) if the association accepts a gift from a foreign state, as defined in section 2 of the State Immunity Act, that is set out on the list referred to in subsection 6.1(2) of that Act.

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, registered Canadian amateur athletic association or registered journalism organization, 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 charity, registered Canadian amateur athletic association or registered journalism organization, accepts a gift the granting of which was expressly or implicitly conditional on the charity, association or organization making a gift to another person, club, society, association or organization other than a qualified donee.

168 (2) Revocation of Registration

If the Minister gives notice under subsection (1) to a registered charity, to a registered Canadian amateur athletic association or to a registered journalism organization,

(a) if it 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 on that publication of a copy of the notice, the registration is revoked; 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 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.

Tax and Penalties in Respect of Qualified Donees

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), it becomes a listed terrorist entity or it is determined, under subsection 7(1) of the 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

- (a) that begins immediately after the earliest of the days on which
 - (i) the Minister issues a notice of intention to revoke the registration of the charity under any of subsections 149.1(2) to (4.1) and 168(1),
 - (ii) the charity becomes a listed terrorist entity, and
 - (iii) 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 the Act is reasonable on the basis of information and evidence available, and
- (b) that ends on the day that is the latest of
 - (i) 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,
 - (ii) 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
 - (iii) 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) a registered charity
 - (i) 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,

- (ii) that is not the subject of a suspension under subsection 188.2(1),
- (iii) that has no unpaid liabilities under this Act or under the Excise Tax Act,
- (iv) that has filed all information returns required by subsection 149.1(14), and
- (v) 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; or

(b) a municipality in Canada that is approved by the Minister in respect of a transfer of property from the particular charity.

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) Joint and several, or solidary, liability – tax transfer

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 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 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

If the registration of a taxpayer as a registered charity has been revoked (and subsection 188(2.1) does not apply to the taxpayer), the taxpayer shall, on or before the day that is one year from the end of the taxation year referred to in paragraph 188(1)(a), 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 described in paragraph 188(1.3)(a) 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.

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