



September 8, 2022

REGISTERED MAIL

Alan Peters
Director
John & Lorena Redekop Foundation
201 – 3550 Mt. Lehman Road
Abbotsford BC V4X 2M9

BN: 858128754 RR0001
File number: 3036513

Déar Alan Peters:

Subject: Notice of intention to revoke

We are writing with respect to our letter dated November 1, 2019 (copy enclosed), in which the John & Lorena Redekop Foundation (the Foundation) was invited to respond to the findings of the audit conducted by the Canada Revenue Agency (CRA) for the period from May 1, 2012, to April 30, 2014. Specifically, the Foundation was asked to explain why its registration should not be revoked in accordance with subsection 168(1) of the Income Tax Act.

We have reviewed and considered your written response dated January 15, 2020. Your reply has not alleviated our concerns with respect to the Foundation's non-compliance with the requirements of the Act for registration as a charity. Our concerns are explained below.

Issuing official income tax receipts not in accordance with the Act – Lack of donative intent

It is the CRA's position that shares received by the Foundation did not constitute a gift at law because the primary motivation of the donors was not to enrich the Foundation but rather to participate in a series of private tax planning arrangements. This is based on the timing of the transactions, the parties involved and the lack of documentation retained by the Foundation to support its decision making. These actions combined with the tax credits and other benefits received by the donors, lack the requisite donative intent to be considered gifts.

Foundation's response:

The Foundation:

- Agreed that in some instances, the same number of shares were received by some of the donors but this does not negate the donative intent of the donors;
- Stated it undertook its own independent planning following the donation of shares;
- Identified the primary motivation for the donations of shares was to provide funds and assets to support the legacy of John Redekop and his family;

- Argued that the CRA did not take into account subsections 248(30) to (41) of the Act while also stating that the fair market value of the shares given up were equal to the assets received so no benefit was conferred; and
- Provided that the CRA's statement that the donations were made to non-arm's length recipients is largely irrelevant.

CRA's response:

The Foundation did not submit any additional documentation to support its assertions as to independent planning by the Foundation and the primary motivation for the donations of shares. In the absence of such documentation, the CRA is left with evaluating the materials presented during the audit, which concluded that the **shares received do not constitute a gift.**

To reiterate, in one series of transactions discussed in Appendix 2 of our letter dated November 1, 2019, on May 30, 2011, John Redekop Holdings Ltd. donated 490,992 shares to the Foundation and received an official donation receipt for \$8,150,467 and on December 28, 2011, John Redekop donated 22,000 shares and received a donation receipt for \$259,600. On April 17, 2012, the Foundation gifted all of these shares to Oak Tree Foundation and assigned a value of \$5,689,081. This means that **the Foundation disposed of these shares at an amount \$2,720,986 less than their tax receipted value.** Oak Tree Foundation subsequently disposed of these shares on October 25, 2012, to John Redekop at a value of \$5,694,211.

As a result of this series of transactions, John Redekop Holdings Ltd.:

- Effectively transferred its shares to John Redekop;
- Received a donation receipt for said transfer;
- Reduced the adjusted cost base of the shares now held by John Redekop; and
- **By cycling the shares through registered charities, avoided the taxable capital gain that would have been associated with the disposition of shares to an individual.**

Added to this, the fact that these transactions took place among non-arm's length parties is indeed relevant, as is their timing. John Redekop was a member and director of the Foundation and Oak Tree Foundation, an officer of the corporation whose shares were donated and controlled John Redekop Holdings Ltd. In addition, the Foundation has demonstrated it has the capacity to seek the assistance of legal and accounting professionals. Yet, nowhere in the Foundation's records or submissions is there documentation or discussion of accepting these shares, evaluating their risk or the purpose of gifting them to another registered charity less than one year after receiving them.

Further, subsections 248(30) to (41) were added to the Act to clarify the circumstances under which taxpayers and donees may be eligible for tax benefits under the Act in respect of the impoverishment of a taxpayer in favour of a donee. It is generally accepted that the tax benefit available to a taxpayer, by way of a charitable donation deduction or credit, is not considered an advantage or benefit that would reflect a lack of donative intent on the part of the taxpayer. However, there may be circumstances where the

intention of a taxpayer to make a gift is in doubt because of the combination of tax and other benefits to the taxpayer. If the primary motivation of a taxpayer for entering into a transaction or series of transactions is to return a profit to the taxpayer by way of a combination of tax and other benefits, as is CRA's position in the case of the Foundation, the taxpayer may not be impoverished by the transfer of property to a charity. These subsections are not intended to allow a taxpayer to profit by making a gift. Therefore, it is our position that these subsections do not apply to the series of transactions the Foundation entered into.

Issuing official income tax receipts not in accordance with the Act – Fair market value

Upon further review of the information concerning the value of the shares, the CRA has deemed that this is no longer an issue.

Failure to devote resources to charitable activities

The audit found that the Foundation structured its affairs for the benefit of private persons to the detriment of its charitable mandate, and as such, its resources were not devoted exclusively to charitable activities.

Foundation's response:

The Foundation argued that it made extensive donations in the years in question and all of the assets of the Foundation were used to support its charitable endeavours.

CRA's response:

As noted on page 9 of the Foundation's response, the vast majority of the Foundation's donations or gifts to other registered charities, were given to Oak Tree Foundation, a charity John Redekop is also a director of and also participated in the private tax planning arrangement. Further, given that the Foundation disposed of shares at an amount \$2,720,986 less than their tax receipted value, it cannot be said that all of the Foundation's assets were used to support its charitable endeavours.

Conclusion

The audit by the CRA found that the Foundation is not complying with the requirements set out in the Act. In particular, it was found that the Foundation issued official income tax receipts not in accordance with the Act and failed to devote resources to charitable activities. For these reasons, it is our position that the Foundation no longer meets the requirements for charitable registration.

Consequently, for the reasons mentioned in our letter dated November 1, 2019, and pursuant to subsection 168(1) of the Act, we hereby notify you of our intention to revoke the registration of the Foundation. 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) and 168(1)(d) of the Income Tax Act, of our intention to revoke the registration of the charity listed below and that by virtue of paragraph 168(2)(b) thereof, the revocation of registration will be effective on the date of publication of this notice in the Canada Gazette.

Business number	Name
858128754RR0001	John & Lorena Redekop Foundation Abbotsford BC

In addition, due to the **serious nature** of non-compliance found in the audit, the CRA has decided to publish a copy of the notice in the Canada Gazette immediately after the expiration of 30 days from the date of mailing of this notice 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 reasons for objection and all relevant facts, must be filed within 90 days from the day this letter was mailed. The notice of objection should be sent to:

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

However, please note that even if the Organization files a notice of objection with the CRA, 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.

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 Foundation 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 Foundation 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 Foundation 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; and,
- c) the Foundation will no longer qualify as a charity for purposes of subsection 123(1) of the Excise Tax Act. As a result, the Foundation may be subject to obligations and entitlements under the Excise Tax Act that apply to entities other than charities. If you have any questions about your Goods and Services Tax/Harmonized Sales Tax (GST/HST) obligations and entitlements, please call GST/HST Rulings at 1-800-959-8287.

Finally, 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 P. Khare

Sharmila Khare
Director General
Charities Directorate

Enclosures

- Appendix A, Relevant provisions of the Act
- CRA letter dated November 1, 2019
- Foundation's representations dated January 15, 2020

c.c.:

