

Exhibits to Letter from the Jewish National
Fund of Canada Inc. to the Canada Revenue
Agency Dated October 24, 2023

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Exhibit A

Screeners Comments - Attachment

Background

The Charity has been audited and had its file reviewed on numerous occasions since its registration in 1967. There have been no final conclusions reached and no concluding letters sent to the Charity to close any of the audits. Although, an AFL was issued during one of the audits. The Charity replied to the AFL, but no concluding letter was sent back to the Charity.

The audits and reviews have generated a lot of material concerning the Charity. This material includes information collected from the Charity, information collected from open sources (i.e. media) about the Charity, and many memos and opinions from Charities Directorate staff and legal advisors. All of the information is very interesting and provides excellent background about the Charity, and provides a view of potential areas of concern for the current audit. (Note: The part of the Supp Folder labled 2008 and 2010 contains the most recent reviews. As part of these reviews, some of the more pertinent opinions and correspondence from the past has been copied, beginning with the AFL from August 21, 1989).

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The current audit should pay particular attention to the areas outlined below:

Books & Records Inside Canada

The Charity should be made aware during the initial contact that we require access to all its books and records, and these records should be available at its office in Montreal.

The Charity's office is located in Montreal. It acts as the head office for a dozen branch offices ("the Branches") located across Canada. The Branches are not registered charities, but operate as part of the Charity. However, each of the Branches appear to operate with a significant amount of autonomy, from the maintenance of separate websites to organizing their own fundraising events.

The most recent audit identified potential issues with the maintenance of records at the Charity's office and the control of its receipts. This issue was a direct result of the operations of the autonomous Branches. The Branches maintained their own books & records and issued receipts, and the information was not always forwarded to the Charity's head office. Based on the fact the Charity continues to operate in the manner described above, this should be a significant area of focus for the current audit.

In addition, this information should provide us with a good understanding of the funds expended by the Charity inside Canada. It appears that the Charity's expenditures inside Canada are related to its management & administration activities, and its fundraising activities. This a potential area of concern as in several recent fiscal periods (2011, 2010 and 2009) it spent more on management & administration, and fundraising than on its charitable programs.

Activities Outside Canada

We need a clear understanding of the Charity's activities outside Canada. Does the Charity maintain direction and control of these activities? Are these activities charitable?

The Charity reported that it spent \$5,296,184 on its charitable programs in 2012 (\$3,818,018 in 2011). The Charity reported that all of these funds were spent on activities outside of Canada, in Israel.

The Charity's operations in Israel have always been managed by its Jewish National Fund of Canada - Israel Committee (JNF CANISCOM). JNF CANISCOM would oversee the application of the Charity's funds on projects managed by the Israeli organization Karen Kayemeth Le'Israel (KKL).

- We need copies of any up-to-date agreements and the supporting documentation that substantiates the Charity is in control of its resources.

The Charity reports on its website that "Funds raised by Jewish National Fund of Canada are primarily directed to the payment of wages to workers engaged in various aspects of Jewish National Fund (the KKL) activities". This differs slightly from the Charity's historical information, which outlined funds the were to pay stipends to employ **indigent (poor and disabled)** labour on infrastructure projects for the benefit of the state of Israel. The workers are no longer identified as indigent. It is generally charitable to provide relief to Indigent workers, but it is usually not charitable to merely provide wages to general labourers.

- We need to know:
 - How many workers did the Charity provide stipends for?
 - How are these workers selected and what makes them eligible for charitable relief?
 - How much is the stipend they receive?
 - What projects are the workers providing labour for? How does the Charity determine which projects it will provide labour for?
 - Where are these projects located?

The Charity's website, and the website of its Branches, provides information on numerous activities. It is not always clear if the Charity is merely providing labour, if the Charity is providing funds for other parts of the activities, if the activities are the sole responsibility of the KKL, or if they receive funds from the Charity itself and/or from the Branches directly.

- We need to know if the Charity is using its resources to conduct any other activities in Israel, beyond "payment of wages to workers"?
What were these activities?
How were these activities selected?
Where did these activities take place?

The questions listed above are not exhaustive, but are to merely give an idea of the detail required when examining the Charity's activities. It is an area that we have historically not understood to a sufficient degree to determine the Charity's level of compliance.

Charitable Purposes

The Charity was incorporated in 1962, and continues to this day, to be established for a single purpose:

"to create, provide, enlarge and administer a fund to be made up of voluntary contributions from the Jewish community and others to be used for charitable purposes."

By current common law standards this is not an exclusively charitable object. It is too broad and vague. As outlined on our website for new applicants"

"To be eligible for registration, a charity must describe its purposes precisely so that each one is clear and restricts the organization to only charitable activities.

Language that is broad and vague could include non-charitable purposes and allow for the pursuit of non-charitable activities, which would not meet the requirement of exclusivity."

We can address any concerns with the Charity's purpose once we have a clear understanding of its activities.

Exhibit B



Case Info Sheet

Taxpayer identification

Name of taxpayer or business: Jewish National Fund of Canada (Keren Kayemeth Le'Israel) Inc. /
Fonds National Juif du Canada (Keren Kayemeth Le'Israel) Inc.

RC161, *Authorization for Parliamentarians*, signed:

Issue or enquiry

Issue

The Canada Revenue Agency (CRA) has received numerous leads related to the Jewish National Fund of Canada (the Organization) requesting that the CRA revoke its charitable status, most recently in the form of Independent Jewish Voices' current [public petition/complaint to Minister LeBouthillier](#), which includes statements that the Organization is the fundraising arm of the JNF in Israel, the largest private landowner in the state, which practices institutional racial discrimination against Israel's non-Jewish population in the provision of land and housing, through the displacement of Palestinians.

On April 19, 2018, further to the ongoing CRA audit of the Organization, the CRA sent a second Administrative Fairness Letter (AFL) to the Organization. The CRA received a response from the Organization on October 5, 2018, and is in the process of reviewing the representations provided.

On January 4, 2019, an [article](#) was published by Evan Dyer in CBC News. The article states JNF has been the subject of a CRA audit over a complaint that it used charitable donations to build infrastructure for the Israel Defence Forces (IDF), which would not be compliant with Canada's tax rules. The article focuses on infrastructure projects funded by JNF on Israeli army, air and naval bases. The article also questions JNF's transparency on how much is spent on planting trees, irrigation, or education, and how much is spent on projects for the IDF.

The Organization

The Organization was registered as a charitable organization effective January 1, 1967, "to create, provide, enlarge and administer a fund to be made up of voluntary contributions from the Jewish community and others to be used for charitable purposes." Its primary purpose has been to create and administer a fund, made up of contributions from the Jewish community and others, and it reports ongoing operations in Israel.

According to [its website](#), the Organization "directs 100% of its charitable dollars to support the Land of Israel." According to its most recently filed information return, the Organization has a staff of 35 full-time employees and 13 part-time employees, and a [39-person board of directors, trustees and like officials](#).

2016 Total tax-receipted revenue: \$6,870,844; Total revenue: \$29,064,915 (24%)

2015 Total tax-receipted revenue: \$5,952,189; Total revenue: \$15,386,685 (39%)

Media, Public Interest, and Leads History

THIS MAY CONTAIN INFORMATION PROTECTED BY SUBSECTION 241(1) OF THE *INCOME TAX ACT*, SUBSECTION 295(2) OF THE *EXCISE TAX ACT*, SUBSECTION 211(2) OF THE *EXCISE ACT, 2001* OR SECTIONS 7 AND 8 OF THE *PRIVACY ACT*. THIS INFORMATION CAN ONLY BE USED OR DISCLOSED FOR A PURPOSE AUTHORIZED BY LAW. THUS IT MAY BE USED OR DISCLOSED FOR THE PURPOSES OF ADMINISTERING THE ACTS LISTED ABOVE, OR DISCLOSED TO THE TAXPAYER OR AN AUTHORIZED REPRESENTATIVE OF THE TAXPAYER SUBJECT TO THE CONDITIONS OF THE APPROPRIATE ACT LISTED ABOVE AND APPLICABLE POLICIES. UNAUTHORIZED USE OR DISCLOSURE OF THE INFORMATION CONTAINED WITHIN THIS DOCUMENT MAY RESULT IN CRIMINAL PROSECUTION, CIVIL CLAIMS, OR DISCIPLINARY ACTION.

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Over the years, the Organization has often been the subject of media attention and the subject of various letter writing campaigns and complaints from members of the public. Such public complaints usually relate to the Organization's activities, and policies, which are perceived to run contrary to Canadian public policy and international law. Some notable examples follow.

In February 2014, the CRA began receiving numerous identical postcards related to the Organization through its Ministerial Correspondence workflow. The postcards were addressed to the Minister of National Revenue, and were each signed by a different taxpayer. The postcards requested that the CRA "revoke the charitable status of the Jewish National Fund (JNF) of Canada [as the] JNF's activities and policies run contrary to Canadian and international law." Each postcard bears the logos of the following two organizations: Independent Jewish Voices and Stop the JNF Canada. On its [website](#), Independent Jewish Voices states that Stop the JNF Canada and Independent Jewish Voices created the postcards. The CRA received over 1,000 postcards as part of this campaign.

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Also in 2016, there was media attention regarding the Organization, as a recommendation for the revocation of its charitable status was one of two foreign policy resolutions put forward at the Green Party of Canada's convention. Initially, the resolution called on the CRA to revoke the Organization's charitable status for contravening public policy against discrimination and for its failure to comply with international human rights law. However, the resolution that was passed removed the reference to any particular organization and instead added to its policies: "the revocation of charitable status from organizations complicit in international rights violations."

Current Audit

The Organization was selected for audit for its fiscal periods ending December 31, 2011, and 2012. Its operations have been reviewed in the past on four separate occasions. While compliance concerns had been identified, no final conclusions were reached or communicated to the Organization.

Following our review, a first AFL was issued to the Organization on May 12, 2016, which addressed identified areas of non-compliance of failure to be constituted and operated for exclusively charitable purposes, failure to devote resources to charitable activities carried on by the Organization itself, and books and records issues. A response was provided on September 12, 2016. Following an in-depth review of the response, a second AFL was issued to the Organization on April 19, 2018, addressing additional concerns including resourcing non-charitable projects in the occupied territories, and supporting the Israeli Defence Forces.

The current audit findings indicate that the Organization has not devoted its resources exclusively to charitable activities, and is not operating to further recognized charitable purposes. In particular, the audit findings show that a significant portion of the Organization's resources (\$3,818,018, for 2011, and \$5,296,184, for 2012 – all of what it reported as its "charitable programs," with the remainder of its expenditures devoted to management and administration, fundraising, and other costs) are transferred to the JNF in Israel, purportedly for costs associated with the construction of public infrastructure in Israel.

The JNF appears to be using the funds for its own purposes, rather than to accomplish charitable programs on the Organization's behalf. The activities funded by the Organization do not appear to be charitable. Our review identified that the Organization's resources are applied to the JNF's non-charitable projects in the Occupied Territories (for example, "Canada Park," the Organization's flagship project, was built within the Occupied Palestinian Territories, and three Palestinian villages (Beit-Nuba, Emmaus and Yalou) were demolished to make way for the park), and to supporting the Israeli armed forces. Increasing the effectiveness and efficiency of Canada's armed forces is charitable, but supporting the armed forces of another country is not.

In Canada, an organization is not charitable in law if its activities are contrary to Canadian public policy, which requires a definite and officially declared and implemented policy (e.g., found in an Act of Parliament, a regulation or other publicly available government document of any kind). In this regard, Global Affairs Canada has declared and implemented a policy entitled "[Canadian Policy on Key Issues in the Israeli-Palestinian Conflict](#)." In part, it reads as follows: "Canada's policy on Occupied Territories and Settlements:

Canada does not recognize permanent Israeli control over territories occupied in 1967 (the Golan Heights, the West Bank, East Jerusalem and the Gaza Strip). The Fourth Geneva Convention applies in the occupied territories and establishes Israel's obligations as an occupying power, in particular with respect to the humane treatment of the inhabitants of the occupied territories. As referred to in UN Security Council Resolutions 446 and 465, Israeli settlements in the occupied



territories are a violation of the Fourth Geneva Convention. The settlements also constitute a serious obstacle to achieving a comprehensive, just and lasting peace.

Canada believes that both Israel and the Palestinian Authority must fully respect international human rights and humanitarian law which is key to ensuring the protection of civilians, and can contribute to the creation of a climate conducive to achieving a just, lasting and comprehensive peace settlement..."

After it received the CRA's AFL dated April 19, 2018, the Organization requested a conference call with the CRA to discuss next steps, agreeing that significant changes would be required to bring itself back into compliance, but that it was willing to do so to maintain its charitable status. The call was held on June 14, 2018, and the Organization agreed to provide a written response by September 1, 2018, describing the changes the Organization purports to have already made, and those which it will commit to make in the near future, for the CRA's consideration, before any next steps can be identified.

The Organization had requested an extension to provide their representations and CRA agreed. The Organization provided the CRA with a 144 page response, dated October 5, 2018. The CRA needs a thorough understanding of the charity's operations and its representations. The CRA reviews the representations for new or clarifying information. The goal is to understand how each of CRA's concerns have been addressed before the CRA decides upon an audit outcome.

The CRA is currently in the process of reviewing the representations from the Organization and expects to have a final decision by March 31, 2019. However, before being able to determine an audit outcome, the CRA must determine if the representations alleviate or refute all of the concerns raised in the AFL. Should additional information or clarification be required from the Organization, the timeline identified above may be impacted.

The fact that the Organization is being audited and has received two AFLs is confidential taxpayer information protected under Section 241 of the Act.

Program action and next steps

- **Date of publication in the Canada Gazette:** [Date]
 - **News Release:** Choose an item.
 - **Media Lines:** Choose an item.
 - **Questions and Answers:** Choose an item.
-
- The confidentiality provisions of the *Income Tax Act* prevent the Canada Revenue Agency (CRA) from discussing the affairs of a particular organization without the consent of an authorized representative.
 - The CRA can confirm that the Jewish National Fund of Canada (Keren Kayemeth Le'Israel) Inc. is a Canadian registered charity, effective January 1, 1967.
 - The CRA registers charities in Canada, and makes sure they continue to comply with the requirements of the *Income Tax Act* and common law.
 - When a charity operates within Canada, it must comply with Canadian laws, including the *Income Tax Act* and common law. However, a charity that carries on activities outside Canada may operate in areas where the legal framework and laws are different.
 - Although the *Income Tax Act* does not require that registered charities comply with laws in foreign jurisdictions, being registered in Canada does not exempt a charity from the laws in the jurisdiction where they operate.
 - The CRA strongly suggests that all charities make themselves aware of local laws, and how they are enforced, before carrying out their charitable programs abroad. Being aware of local laws and their application will help make sure that the public benefit provided by a charity's activities is not offset by harm that may result to those carrying on the activities, to the charity's beneficiaries, or to anyone else.
 - If the public has complaints or concerns about a registered charity, they are encouraged to contact the Charities Directorate. The Charities Directorate reviews all complaints and concerns and keeps the identity of the correspondent confidential. We only make our actions public when they lead to the charity being: revoked, annulled, suspended, or penalized.



Renseignements publics

- Les dispositions sur la confidentialité de la Loi de l'impôt sur le revenu empêchent l'Agence du revenu du Canada (ARC) de discuter des affaires d'un organisme en particulier sans le consentement d'un représentant autorisé.
- L'ARC peut confirmer que le Fonds National Juif du Canada (Keren Kayemeth Le'Israel) Inc. est un organisme de bienfaisance canadien enregistré depuis le 1^{er} janvier 1967.
- L'ARC enregistre les organismes de bienfaisance au Canada et veille à ce qu'ils continuent de respecter les exigences de la *Loi de l'impôt sur le revenu* et la common law.
- Lorsqu'un organisme de bienfaisance exerce ses activités à l'intérieur du Canada, il doit se conformer aux lois canadiennes, y compris la *Loi de l'impôt sur le revenu* et la common law. Toutefois, un organisme de bienfaisance qui exerce des activités à l'extérieur du Canada peut mener des activités dans d'autres régions où le cadre légal et les lois sont très différents.
- Bien que la *Loi de l'impôt sur le revenu* n'exige pas particulièrement qu'un organisme de bienfaisance observe les lois des pays étrangers dans lesquels il travaille, cela ne signifie pas qu'il est exempté de ces lois.
- L'ARC suggère fortement à tous les organismes de bienfaisance de s'informer des lois locales et de la façon dont elles sont appliquées avant d'entreprendre leurs programmes de bienfaisance à l'étranger. En étant au courant des lois locales et de leur application, l'organisme évitera que la poursuite de ses activités ne cause de préjudice à son personnel, à ses bénéficiaires ou à toute autre personne.
- Toute personne voulant faire une plainte ou ayant des préoccupations au sujet d'un organisme de bienfaisance enregistré est invitée à communiquer avec la Direction des organismes de bienfaisance. La Direction des organismes de bienfaisance passe en revue toutes les plaintes et préoccupations et garde l'identité de la personne confidentielle. Nous rendons nos mesures publiques seulement lorsque celles-ci mènent à la révocation, l'annulation, la suspension ou la pénalisation de l'organisme de bienfaisance.

Prepared by:

Sandra Burke
Technical Policy Advisor
Charities Directorate
LPRAB

Approved by:

Tony Manconi
Director General
Charities Directorate
LPRAB

Date:

[Date approved]



Case Info Sheet

Taxpayer identification

Name of taxpayer or business: Jewish National Fund of Canada (Keren Kayemeth Le'Israel) Inc. /
Fonds National Juif du Canada (Keren Kayemeth Le'Israel) Inc.

RC161, *Authorization for Parliamentarians*, signed:

Issue or enquiry

Issue
Effective, [date of revocation/sanction] in accordance with the Income Tax Act, the Canada Revenue Agency (CRA) will revoke the registration of Jewish National Fund of Canada (Keren Kayemeth Le'Israel) Inc. / Fonds National Juif du Canada (Keren Kayemeth Le'Israel) Inc. (JNF Canada), based in Montréal, Quebec.

Commented [A1]: TBD

Organizations

JNF Canada was registered as a charitable organization effective January 1, 1967 "to create, provide, enlarge and administer a fund to be made up of voluntary contributions from the Jewish community and others to be used for charitable purposes." Its primary purpose has been to create and administer a fund, made up of contributions from the Jewish community and others, and it reports ongoing operations in Israel.

Keren Kayemeth Le'Israel-Jewish National Fund in Israel (JNF Israel) is an Israeli corporation that is the largest private landowner in the state of Israel.

Media, Public Interest, and Leads History

JNF Canada has garnered significant attention from the media and has been the subject of various letter writing campaigns and complaints from members of the public. Such public complaints usually relate to the JNF Canada's activities and policies, which are perceived to be contrary to Canadian public policy and international law. Some notable examples follow.

Independent Jewish Voices, a vocal opponent of JNF Canada, is behind a current [public petition/complaint to Minister LeBouthillier](#), which includes statements that JNF Canada is the Canadian fundraising arm of JNF Israel, and is practicing institutional racial discrimination against Israel's non-Jewish population. On March 13, 2019, the Canadian Union of Postal Workers posted an [article](#) on its website calling on its members to sign Independent Jewish Voices' petition.

On January 9, 2019, an [e-petition](#) that calls upon the Minister of National Revenue to revoke the JNF Canada's charitable status was initiated, sponsored by NDP MP Pierre-Luc Dusseault (Sherbrooke). On January 24, 2019, it was reported that the petition was also being supported by NDP MP Niki Ashton (Churchill—Keewatinook Aski), and endorsed by MPPs Joel Harden (Ottawa) and Rima Berns-McGown (Toronto). The petition had 3,514 signatures and was presented to the House of Commons on May 15, 2019.

On January 4, 2019, a CBC News [article](#) was published by Evan Dyer. The article states JNF Canada has been the subject of a CRA audit over a complaint that it used charitable donations to build infrastructure for the Israel Defence Forces (IDF), which would not be compliant with Canada's tax rules. The article focuses on infrastructure projects funded by JNF Canada on Israeli army, air and naval bases. The article also questions JNF Canada's transparency as to how much is spent on planting trees, irrigation, or education, and how much is spent on projects for the IDF.

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Also in 2016, there was media attention regarding JNF Canada, as a recommendation for the revocation of its charitable status was one of two foreign policy resolutions put forward at the Green Party of Canada's convention. Initially, the resolution called on the CRA to revoke JNF Canada's charitable status for contravening public policy against discrimination and for its failure to comply with international human rights law. However, the resolution that was passed removed the reference to any particular organization and instead added to its policies: "the revocation of charitable status from organizations complicit in international rights violations."

In February 2014, the CRA began receiving numerous identical postcards related to JNF Canada through its Ministerial Correspondence workflow. The postcards were addressed to the Minister of National Revenue, and were each signed by a different taxpayer. The postcards requested that the CRA "revoke the charitable status of the Jewish National Fund (JNF) of Canada [as the] JNF's activities and policies run contrary to Canadian and international law." Each postcard bears the logos of the following two organizations: Independent Jewish Voices and Stop the JNF Canada. On its [website](#), Independent Jewish Voices states that Stop the JNF Canada and Independent Jewish Voices created the postcards. The CRA received over 1,000 postcards as part of this campaign.

Audit

JNF Canada was previously audited in 1978, 1983, 1987, and 1997. The previous audits were closed without the CRA informing JNF Canada of the results of the audits.

In May 2014, JNF Canada was selected for audit. This audit was conducted for JNF Canada's fiscal periods from January 1, 2011, to December 31, 2012.

Administrative Fairness Letters

An Administrative Fairness Letter (AFL 1) was issued to JNF Canada on May 12, 2016, which addressed a number of areas of non-compliance, such as JNF Canada's failure to be constituted and operated for exclusively charitable purposes; failure to devote resources to charitable activities carried on by JNF Canada itself, and failure to maintain adequate books and records.

JNF Canada submitted a substantive response to AFL 1 (over 100 pages) dated September 12, 2016, which did not alleviate all of the concerns and raised additional ones.

A second AFL (AFL 2) was required to address new information presented by JNF Canada. While a second AFL is not typically issued, the CRA does so in cases where new information is presented by a charity to allow for procedural fairness before proceeding to issue a Notice of Intention to Revoke.

AFL 2 was issued to JNF Canada on April 19, 2018. The specific areas of non-compliance with the provisions of the Act and/or its Regulations outlined in AFL 2 were as follows:

1) Failure to be constituted for exclusively charitable purposes

In AFL 2, we reiterated our view from AFL 1 that JNF Canada's stated purposes are broad and vague. In its response dated September 12, 2016, JNF Canada agreed that its purposes could be more specific and presented new proposed purposes.

JNF Canada claimed that it relieves poverty by providing employment to indigent workers. Our position is that this activity serves as a means to advance an unstated non-charitable purpose, broadly supporting the work of JNF.

JNF Canada also asserted that some of its activities advance religion because of its religious underpinnings. It is the CRA's position that JNF Canada's activities do not advance religion in the charitable sense because religious motivation is not a pertinent consideration, and will not transform a secular activity into one directed toward religious advancement.

2) Failure to devote resources to charitable activities carried on by JNF Canada itself

a) Lack of direction and control over the use of resources/resourcing non-qualified donees

JNF Canada has stated that its activities were mainly conducted through an intermediary, JNF Israel. Our audit determined that the information and documentation provided by JNF Canada did not substantiate this position.



Canada Revenue
Agency

Agence du revenu
du Canada

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We reviewed the JNF Israel webpage, which characterizes JNF Canada as a 'donating country' and not a registered charity that directs and controls its own activities, with the JNF Israel acting as its intermediary. While JNF Canada has stated that it is independent of JNF Israel, and involved in water, environmental, and development projects in the Middle East, we were unable to distinguish between the activities of JNF Canada and those of JNF Israel.

The audit also found issues with JNF Canada's unexecuted general agency agreement template (lack of project specific detailed information), its annual budget, an overall lack of documentation showing ongoing monitoring and supervision of its purported activities, and its use of subcontractors.

b) Conduct of non-charitable activities

Our concerns in this context focused on two issues:

- We identified projects supported by JNF Canada that were being carried out during the audit period in Israeli settlements. We took the position that establishing and maintaining physical and social infrastructure elements and providing assistance to Israeli settlements serves to encourage and enhance the permanency of the infrastructure and settlements, and thus appears to be contrary to Canada's public policy and international law on this issue. The stated Canadian public policy we relied upon was the Global Affairs Canada policy, "[Canadian Policy on Key Issues in the Israeli-Palestinian Conflict](#)". However, our preliminary position regarding JNF Canada's activities in Israeli settlements has changed. It is our view that the stated Canadian public policy from Global Affairs Canada does not meet the judicial requirement as established by the Federal Court of Appeal (Everywoman's Health Centre Society (1988) v. Minister of National Revenue, [1992] 2 F.C. 52 at para. 16), which found that "...for an activity to be considered as 'contrary to public policy,' there must be a definite and somehow officially declared and implemented policy". As a result, the nature of the Organization's activities undertaken during the audit period in Israeli settlements was not a factor in our decision to propose revocation of the Organization's charitable status.
- We identified projects where JNF Canada's resources were used to conduct activities in support of the Israel Defense Forces (IDF). We explained that some activities may not be charitable when carried on in a different country, for example, increasing the effectiveness and efficiency of Canada's armed forces is charitable, but supporting the armed forces of another country is not.

3) Failure to Maintain Adequate Books and Records

Our audit determined that JNF Canada did not maintain adequate books and records to prove that its charitable status should not be revoked. The following concerns were raised in this context:

- We were unable to verify the projects and other details relating to whether JNF Canada's resources were devoted to its own charitable activities, because some relevant materials were in Hebrew and not "in such form as will enable the Minister to determine whether there are any grounds for the revocation of its registration under this Act."
- JNF Canada failed to produce source documentation that would allow us to verify resources disbursed by JNF Canada through its intermediary.
- The agency agreement and supporting documentation did not establish that JNF Canada's activities were effectively authorized, controlled and monitored by JNF Canada.
- Supporting documentation was not provided that would allow us to verify that expenses for travel, hotel, meals, gas, telephone, mileage, miscellaneous, and entertainment related to the conduct of charitable activities.

Charity Response

JNF Canada submitted written responses dated September 12, 2016, May 17, 2018, and October 5, 2018, to our AFLs.

In its representations, JNF Canada:

- Asserted its willingness to amend its purposes and change its activities accordingly, and outlined its limited efforts to show that it is distinct from JNF Israel;
- Outlined steps it has taken to inform its volunteers, staff and intermediaries of their responsibilities as leaders of a Canadian registered charity and made other commitments to exercise required control. However, no documents were provided to show that JNF Canada adequately directs and controls its purported activities;
- Stated its view that "the pronouncement [the public policy posted on the Global Affairs website referred to above] falls short of a "definite and somehow officially declared and implemented policy" prohibiting Canadian charities from operating in the Territories", and that it "stopped performing activities on IDF military bases in 2016"; and
- Stated it would "commit to better record-keeping practices", but lacked documentation to support this change.



Canada Revenue
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Canada

Our position regarding its activities in Israeli settlements has changed. The CRA's letter advised that the nature of the Organization's activities undertaken during the audit in Israeli settlements was not a factor in our decision to propose revocation of its charitable status.

Furthermore, whether an organization is constituted exclusively for charitable purposes, as explained in both AFLs, cannot be determined solely by reference to its stated purposes, and must take into account the activities carried on by JNF Canada. Our review of JNF Canada's current webpages and of its magazine shows that it does not adequately distinguish its activities from those of JNF Israel. In addition, the information and documentation we have been able to review does not alleviate our concern that JNF Canada's purported activities include supporting the armed forces of another country.

In summary, we reviewed and considered JNF Canada's response and it is our view that the concerns expressed in the AFLs, except for our concerns relating to the activities in Israeli settlements, were not alleviated by JNF Canada's representations.

Factors for Decision

The audit by the CRA found a number of serious areas of non-compliance, including not being constituted and operated for exclusively for charitable purposes; failure to devote resources to charitable activities carried on by JNF Canada itself due to a lack of direction and control over the use of resources/resourcing non-qualified donees and conducting non-charitable activities; and failure to maintain adequate books and records.

In addition, the total revenue and tax-receipted revenue reported for fiscal periods 2015 to 2017 are substantial:

- 2017 Total tax-receipted revenue: \$5,952,189; Total revenue: \$15,385,685 (38%)
- 2016 Total tax-receipted revenue: \$6,870,844; Total revenue: \$29,064,915 (24%)
- 2015 Total tax-receipted revenue: \$5,952,189; Total revenue: \$15,386,685 (39%)

While JNF Canada's representations expressed a commitment to take steps in the future to enhance its compliance with the Act, the information and documentation provided to us does not demonstrate how JNF Canada will operate in such a manner—JNF Canada has not demonstrated that its purposes are exclusively charitable, nor has it shown how its activities will be conducted in accordance with the Act and common law. Therefore, it is our position that JNF Canada should be revoked for cause.

Decision

Notwithstanding a message that was communicated in the Administrative Fairness Letter, the Notice of Intention to Revoke advises that "the nature of the Organization's activities undertaken during the audit period in Israeli settlements was not a factor in our decision to propose revocation of the Organization's charitable status." 23

Taking all the considerations into account, JNF Canada was issued a 90-day Notice of Intention to Revoke on August 20, 2019. If JNF Canada believes that the CRA has misinterpreted the facts or applied the law incorrectly, it can avail itself of its recourse rights by filing an objection with the Appeals Branch within 90 days from the date of the Notice of Intention to Revoke. In most cases, the CRA will allow a charity to exhaust its objection and appeal rights before revoking registration. This means that the revocation would not be published in the Canada Gazette and the CRA would not be able to release any part of any letters with respect to the pending revocation until the Appeals Branch has rendered a decision on the objection. The objection process can take several years to resolve. During this time, JNF Canada would continue to operate as a registered charity and be permitted to issue official donation receipts.

Program action and next steps

- **Date of publication in the Canada Gazette:** [Date]
- **News Release:** No
- **Media Lines:** Yes
- **Questions and Answers:** No

Commented [AC2]: TBD

A *Notice of Intention to Revoke* was sent to JNF Canada dated August 20, 2019.

As stated in the *Notice of Intention to Revoke* [note that media spokespersons must repeat any portion of or the entirety of this quote verbatim]:

"The audit by the CRA found that the Organization is not complying with the requirements set out in the Act. In particular, it was found that the Organization was not constituted and operated for exclusively charitable purposes, failed to devote resources to charitable activities carried on by the Organization itself, and failed to maintain adequate books and records. For all of these reasons, and for each reason alone, it is the position of the CRA that

the Organization no longer meets the requirements for charitable registration and should be revoked in the manner described in subsection 168(1) of the Act'

Public information

- The CRA has a responsibility to protect the integrity of the tax system and the charitable sector by ensuring that all registered charities follow the rules associated with registration.
- Registered charities must be established for exclusively charitable purposes as defined by law.
- A registered charity must devote substantially all of its resources to activities in support of the charitable purposes for which it was registered.
- The Income Tax Act allows a registered charity to carry out its charitable purposes in only two ways: it can make gifts to other organizations that are qualified donees, or it can carry on its own charitable activities.
- When carrying out its own activities, a registered charity must ensure it maintains direction and control over the use of its resources.
- A registered charity is prohibited from gifting its resources to non-qualified donees.
- Registered charities must keep adequate books and records to allow the CRA to verify donations made to the charity, and to ensure the proper use of charitable resources.
- When an audit uncovers that a registered charity is not following the Act, the CRA will send the charity a letter that outlines in detail each of the CRA's concerns; provide its preliminary view of whether the charity needs to take corrective actions or whether the non-compliance warrants imposing sanctions or revoking or annulling the charity's registration; and, provide the charity the opportunity to make representations before the CRA comes to a final decision.

Renseignements publics

- L'ARC a la responsabilité de protéger l'intégrité du régime fiscal et du secteur de la bienfaisance en s'assurant que tous les organismes de bienfaisance enregistrés suivent les règles relatives à l'enregistrement.
- Les organismes de bienfaisance enregistrés doivent être établis exclusivement à des fins de bienfaisance, lesquelles sont définies en droit.
- Un organisme de bienfaisance enregistré doit consacrer la plupart de ses ressources à des activités qui appuient les fins de bienfaisance pour lesquelles il a été enregistré.
- La Loi de l'impôt sur le revenu permet à un organisme de bienfaisance enregistré de réaliser ses fins de bienfaisance de deux façons seulement : il peut faire des dons à d'autres organismes qui sont des donataires reconnus, ou il peut mener ses propres activités de bienfaisance.
- Lorsqu'il exerce ses propres activités, un organisme de bienfaisance enregistré doit conserver la direction et le contrôle sur l'utilisation de ses ressources.
- Il est interdit à un organisme de bienfaisance enregistré de faire le don de ses ressources à des donataires non reconnus.
- Les organismes de bienfaisance enregistrés doivent tenir des livres et registres comptables suffisants afin de permettre à l'ARC de vérifier les dons versés à l'organisme de bienfaisance et d'assurer l'utilisation appropriée des ressources de bienfaisance.
- Si, dans le cadre d'une vérification, l'ARC découvre qu'un organisme de bienfaisance enregistré n'observe pas la loi, elle lui enverra une lettre qui a pour but d'exposer en détail chacune de ses préoccupations; lui expliquera sa position préliminaire sur la question de savoir si l'organisme doit prendre des mesures correctives ou si l'inobservation justifie l'imposition de sanctions ou la révocation ou l'annulation de son enregistrement; et, lui donnera l'opportunité de présenter des représentations avant que l'ARC prenne une décision définitive.

Prepared by:	In consultation with:	Approved by:	Approved by:	Approved by:
Shane Byrnes Senior Policy Analyst Charities Directorate LPRAB	Alexandre Chapados Technical Policy Advisor Charities Directorate LPRAB	Lindsay Bielby Acting Director, CISD Charities Directorate LPRAB	Tony Manconi Director General Charities Directorate LPRAB	Geoff Trueman Assistant Commissioner LPRAB
May 9, 2019; revised July 3, 2019; revised August 15, 2019	March 18, 2019; revised July 3, 2019	March 21, 2019	[Date approved]	[Date approved]



Case Info Sheet

Taxpayer identification

Name of taxpayer or business: Jewish National Fund of Canada (Keren Kayemeth Le'Israel) Inc. /
Fonds National Juif du Canada (Keren Kayemeth Le'Israel) Inc.

RC161, Authorization for Parliamentarians, signed:

Issue or enquiry

Issue
Effective, [\[date of revocation/sanction\]](#) in accordance with the Income Tax Act, the Canada Revenue Agency (CRA) will revoke the registration of Jewish National Fund of Canada (Keren Kayemeth Le'Israel) Inc. / Fonds National Juif du Canada (Keren Kayemeth Le'Israel) Inc. (JNF Canada), based in Montréal, Quebec.

Organizations

JNF Canada was registered as a charitable organization effective January 1, 1967 "to create, provide, enlarge and administer a fund to be made up of voluntary contributions from the Jewish community and others to be used for charitable purposes." Its primary purpose has been to create and administer a fund, made up of contributions from the Jewish community and others, and it reports ongoing operations in Israel.

Keren Kayemeth Le'Israel-Jewish National Fund in Israel (JNF Israel) is an Israeli corporation that is the largest private landowner in the state of Israel.

Media, Public Interest, and Leads History

JNF Canada has garnered significant attention from the media and has been the subject of various letter writing campaigns and complaints from members of the public. Such public complaints usually relate to the JNF Canada's activities and policies, which are perceived to be contrary to Canadian public policy and international law. Some notable examples follow.

Independent Jewish Voices, a vocal opponent of JNF Canada, is behind a current [public petition/complaint to Minister LeBouthillier](#), which includes statements that JNF Canada is the Canadian fundraising arm of JNF Israel, and is practicing institutional racial discrimination against Israel's non-Jewish population. On March 13, 2019, the Canadian Union of Postal Workers posted an [article](#) on its website calling on its members to sign Independent Jewish Voices' petition.

On January 9, 2019, an [e-petition](#) that calls upon the Minister of National Revenue to revoke the JNF Canada's charitable status was initiated, sponsored by NDP MP Pierre-Luc Dusseault (Sherbrooke). On January 24, 2019, it was reported that the petition was also being supported by NDP MP Niki Ashton (Churchill—Keewatinook Aski), and endorsed by MPPs Joel Harden (Ottawa) and Rima Berns-McGown (Toronto). The petition had 3,514 signatures and was presented to the House of Commons on May 15, 2019.

On January 4, 2019, a CBC News [article](#) was published by Evan Dyer. The article states JNF Canada has been the subject of a CRA audit over a complaint that it used charitable donations to build infrastructure for the Israel Defence Forces (IDF), which would not be compliant with Canada's tax rules. The article focuses on infrastructure projects funded by JNF Canada on Israeli army, air and naval bases. The article also questions JNF Canada's transparency as to how much is spent on planting trees, irrigation, or education, and how much is spent on projects for the IDF.

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16(1)(c)

Also in 2016, there was media attention regarding JNF Canada, as a recommendation for the revocation of its charitable status was one of two foreign policy resolutions put forward at the Green Party of Canada's convention. Initially, the resolution called on the CRA to revoke JNF Canada's charitable status for contravening public policy against discrimination and for its failure to comply with international human rights law. However, the resolution that was passed removed the reference to any particular organization and instead added to its policies: "the revocation of charitable status from organizations complicit in international rights violations."

In February 2014, the CRA began receiving numerous identical postcards related to JNF Canada through its Ministerial Correspondence workflow. The postcards were addressed to the Minister of National Revenue, and were each signed by a different taxpayer. The postcards requested that the CRA "revoke the charitable status of the Jewish National Fund (JNF) of Canada [as the] JNF's activities and policies run contrary to Canadian and international law." Each postcard bears the logos of the following two organizations: Independent Jewish Voices and Stop the JNF Canada. On its [website](#), Independent Jewish Voices states that Stop the JNF Canada and Independent Jewish Voices created the postcards. The CRA received over 1,000 postcards as part of this campaign.

Audit

JNF Canada was previously audited in 1978, 1983, 1987, and 1997. The previous audits were closed without the CRA informing JNF Canada of the results of the audits.

In May 2014, JNF Canada was selected for audit. This audit was conducted for JNF Canada's fiscal periods from January 1, 2011, to December 31, 2012.

Administrative Fairness Letters

An Administrative Fairness Letter (AFL 1) was issued to JNF Canada on May 12, 2016, which addressed a number of areas of non-compliance, such as JNF Canada's failure to be constituted and operated for exclusively charitable purposes, failure to devote resources to charitable activities carried on by JNF Canada itself, and failure to maintain adequate books and records.

JNF Canada submitted a substantive response to AFL 1 (over 100 pages) dated September 12, 2016, which did not alleviate all of the concerns and raised additional ones.

A second AFL (AFL 2) was required to address new information presented by JNF Canada. While a second AFL is not typically issued, the CRA does so in cases where new information is presented by a charity to allow for procedural fairness before proceeding to issue a Notice of Intention to Revoke.

AFL 2 was issued to JNF Canada on April 19, 2018. The specific areas of non-compliance with the provisions of the Act and/or its Regulations outlined in AFL 2 were as follows:

1) Failure to be constituted for exclusively charitable purposes

In AFL 2, we reiterated our view from AFL 1 that JNF Canada's stated purposes are broad and vague. In its response dated September 12, 2016, JNF Canada agreed that its purposes could be more specific and presented new proposed purposes.

JNF Canada claimed that it relieves poverty by providing employment to indigent workers. Our position is that this activity serves as a means to advance an unstated non-charitable purpose, broadly supporting the work of JNF.

JNF Canada also asserted that some of its activities advance religion because of its religious underpinnings. It is the CRA's position that JNF Canada's activities do not advance religion in the charitable sense because religious motivation is not a pertinent consideration, and will not transform a secular activity into one directed toward religious advancement.

2) Failure to devote resources to charitable activities carried on by JNF Canada itself

a) Lack of direction and control over the use of resources/resourcing non-qualified donees

JNF Canada has stated that its activities were mainly conducted through an intermediary, JNF Israel. Our audit determined that the information and documentation provided by JNF Canada did not substantiate this position.



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We reviewed the JNF Israel webpage, which characterizes JNF Canada as a 'donating country' and not a registered charity that directs and controls its own activities, with the JNF Israel acting as its intermediary. While JNF Canada has stated that it is independent of JNF Israel, and involved in water, environmental, and development projects in the Middle East, we were unable to distinguish between the activities of JNF Canada and those of JNF Israel.

The audit also found issues with JNF Canada's unexecuted general agency agreement template (lack of project specific detailed information), its annual budget, an overall lack of documentation showing ongoing monitoring and supervision of its purported activities, and its use of subcontractors.

b) Conduct of non-charitable activities

Our concerns in this context focused on two issues:

- We identified projects supported by JNF Canada that were being carried out during the audit period in the territories occupied in 1967 (the Golan Heights, the West Bank, and East Jerusalem). We took the position that establishing and maintaining physical and social infrastructure elements and providing assistance to Israeli settlements in the territories occupied in 1967 serves to encourage and enhance the permanency of the infrastructure and settlements, and thus appears to be contrary to Canada's public policy and international law on this issue. The stated Canadian public policy we relied upon was the Global Affairs Canada policy, "[Canadian Policy on Key Issues in the Israeli-Palestinian Conflict](#)". However, our preliminary position regarding JNF Canada's activities in the territories occupied in 1967 has changed. It is our view that the stated Canadian public policy from Global Affairs Canada does not meet the judicial requirement as established by the Federal Court of Appeal (*Everywoman's Health Centre Society (1988) v. Minister of National Revenue*, [1992] 2 F.C. 52 at para. 16), which found that "...for an activity to be considered as 'contrary to public policy,' there must be a definite and somehow officially declared and implemented policy". As a result, the nature of the Organization's activities in the territories occupied in 1967 were not considered in our decision to propose revocation of the its charitable status.
- We identified projects where JNF Canada's resources were used to conduct activities in support of the Israel Defense Forces (IDF). We explained that some activities may not be charitable when carried on in a different country, for example, increasing the effectiveness and efficiency of Canada's armed forces is charitable, but supporting the armed forces of another country is not.

3) Failure to Maintain Adequate Books and Records

Our audit determined that JNF Canada did not maintain adequate books and records to prove that its charitable status should not be revoked. The following concerns were raised in this context:

- We were unable to verify the projects and other details relating to whether JNF Canada's resources were devoted to its own charitable activities, because some relevant materials were in Hebrew and not "in such form as will enable the Minister to determine whether there are any grounds for the revocation of its registration under this Act."
- JNF Canada failed to produce source documentation that would allow us to verify resources disbursed by JNF Canada through its intermediary.
- The agency agreement and supporting documentation did not establish that JNF Canada's activities were effectively authorized, controlled and monitored by JNF Canada.
- Supporting documentation was not provided that would allow us to verify that expenses for travel, hotel, meals, gas, telephone, mileage, miscellaneous, and entertainment related to the conduct of charitable activities.

Charity Response

JNF Canada submitted written responses dated September 12, 2016, May 17, 2018, and October 5, 2018, to our AFLs.

In its representations, JNF Canada:

- Asserted its willingness to amend its purposes and change its activities accordingly, and outlined its limited efforts to show that it is distinct from JNF Israel;
- Outlined steps it has taken to inform its volunteers, staff and intermediaries of their responsibilities as leaders of a Canadian registered charity and made other commitments to exercise required control. However, no documents were provided to show that JNF Canada adequately directs and controls its purported activities;
- Stated its view that "the pronouncement [the public policy posted on the Global Affairs website referred to above] falls short of a "definite and somehow officially declared and implemented policy" prohibiting Canadian charities from operating in the Territories", and that it "stopped performing activities on IDF military bases in 2016"; and
- Stated it would "commit to better record-keeping practices", but lacked documentation to support this change.



Canada Revenue
Agency

Agence du revenu
du Canada

Canada

Our position regarding its activities in the territories occupied in 1967 has changed. The CRA's letter advised that the nature of the Organization's activities in the territories occupied in 1967 were not considered in our decision to propose revocation of its charitable status.

Furthermore, whether an organization is constituted exclusively for charitable purposes, as explained in both AFLs, cannot be determined solely by reference to its stated purposes, and must take into account the activities carried on by JNF Canada. Our review of JNF Canada's current webpages and of its magazine shows that it does not adequately distinguish its activities from those of JNF Israel. In addition, the information and documentation we have been able to review does not alleviate our concern that JNF Canada's purported activities include supporting the armed forces of another country.

In summary, we reviewed and considered JNF Canada's response and it is our view that the concerns expressed in the AFLs, except for our concerns relating to the activities in the territories occupied in 1967, were not alleviated by JNF Canada's representations.

Factors for Decision

The audit by the CRA found a number of serious areas of non-compliance, including not being constituted and operated for exclusively for charitable purposes; failure to devote resources to charitable activities carried on by JNF Canada itself due to a lack of direction and control over the use of resources/resourcing non-qualified donees and conducting non-charitable activities; and failure to maintain adequate books and records.

In addition, the total revenue and tax-receipted revenue reported for fiscal periods 2015 to 2017 are substantial:
 2017 Total tax-receipted revenue: \$5,952,189; Total revenue: \$15,385,685 (38%)
 2016 Total tax-receipted revenue: \$6,870,844; Total revenue: \$29,064,915 (24%)
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While JNF Canada's representations expressed a commitment to take steps in the future to enhance its compliance with the Act, the information and documentation provided to us does not demonstrate how JNF Canada will operate in such a manner—JNF Canada has not demonstrated that its purposes are exclusively charitable, nor has it shown how its activities will be conducted in accordance with the Act and common law. Therefore, it is our position that JNF Canada should be revoked for cause.

Decision

Notwithstanding a message that was communicated in the Administrative Fairness Letter, the Notice of Intention to Revoke advises that "the nature of the Organization's activities in the territories occupied in 1967 were not considered in our decision to propose revocation of its charitable status."

23

Taking all the considerations into account, JNF Canada was issued a 90-day Notice of Intention to Revoke on [date of revocation/sanction]. If JNF Canada believes that the CRA has misinterpreted the facts or applied the law incorrectly, it can avail itself of its recourse rights by filing an objection with the Appeals Branch within 90 days from the date of the Notice of Intention to Revoke. In most cases, the CRA will allow a charity to exhaust its objection and appeal rights before revoking registration. This means that the revocation would not be published in the Canada Gazette and the CRA would not be able to release any part of any letters with respect to the pending revocation until the Appeals Branch has rendered a decision on the objection. The objection process can take several years to resolve. During this time, JNF Canada would continue to operate as a registered charity and be permitted to issue official donation receipts.

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Program action and next steps

- **Date of publication in the Canada Gazette:** [Date]
- **News Release:** No
- **Media Lines:** Yes
- **Questions and Answers:** No

Commented [AC3]: TBD

A Notice of Intention to Revoke was sent to JNF Canada dated [Date].

Commented [AC4]: TBD

As stated in the Notice of Intention to Revoke [note that media spokespersons must repeat any portion of or the entirety of this quote verbatim]:

"The audit by the CRA found that the Organization is not complying with the requirements set out in the Act. In particular, it was found that the Organization was not constituted and operated for exclusively charitable purposes, failed to devote resources to charitable activities carried on by the Organization itself, and failed to maintain adequate books and records. For all of these reasons, and for each reason alone, it is the position of the CRA that

the Organization no longer meets the requirements for charitable registration and should be revoked in the manner described in subsection 168(1) of the Act

Public information

- The CRA has a responsibility to protect the integrity of the tax system and the charitable sector by ensuring that all registered charities follow the rules associated with registration.
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- When carrying out its own activities, a registered charity must ensure it maintains direction and control over the use of its resources.
- A registered charity is prohibited from gifting its resources to non-qualified donees.
- Registered charities must keep adequate books and records to allow the CRA to verify donations made to the charity, and to ensure the proper use of charitable resources.
- When an audit uncovers that a registered charity is not following the Act, the CRA will send the charity a letter that outlines in detail each of the CRA's concerns; provide its preliminary view of whether the charity needs to take corrective actions or whether the non-compliance warrants imposing sanctions or revoking or annulling the charity's registration; and, provide the charity the opportunity to make representations before the CRA comes to a final decision.

Renseignements publics

- L'ARC a la responsabilité de protéger l'intégrité du régime fiscal et du secteur de la bienfaisance en s'assurant que tous les organismes de bienfaisance enregistrés suivent les règles relatives à l'enregistrement.
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- Il est interdit à un organisme de bienfaisance enregistré de faire le don de ses ressources à des donataires non reconnus.
- Les organismes de bienfaisance enregistrés doivent tenir des livres et registres comptables suffisants afin de permettre à l'ARC de vérifier les dons versés à l'organisme de bienfaisance et d'assurer l'utilisation appropriée des ressources de bienfaisance.
- Si, dans le cadre d'une vérification, l'ARC découvre qu'un organisme de bienfaisance enregistré n'observe pas la loi, elle lui enverra une lettre qui a pour but d'exposer en détail chacune de ses préoccupations; lui expliquera sa position préliminaire sur la question de savoir si l'organisme doit prendre des mesures correctives ou si l'observation justifie l'imposition de sanctions ou la révocation ou l'annulation de son enregistrement; et, lui donnera l'opportunité de présenter des représentations avant que l'ARC prenne une décision définitive.

Prepared by:	In consultation with:	Approved by:	Approved by:	Approved by:
Shane Byrnes Senior Policy Analyst Charities Directorate LPRAB	Alexandre Chapados Technical Policy Advisor Charities Directorate LPRAB	Lindsay Bielby Acting Director, CISD Charities Directorate LPRAB	Tony Manconi Director General Charities Directorate LPRAB	Geoff Trueman Assistant Commissioner LPRAB
May 9, 2019; revised July 3, 2019	March 18, 2019; revised July 3, 2019	March 21, 2019	[Date approved]	[Date approved]





Case Info Sheet

Taxpayer identification

Name of taxpayer or business: Jewish National Fund of Canada (Keren Kayemeth Le'Israel) Inc. /
Fonds National Juif du Canada (Keren Kayemeth Le'Israel) Inc.

RC161, Authorization for Parliamentarians, signed:

Issue or enquiry

Issue
Effective, [date of revocation/sanction] in accordance with the Income Tax Act, the Canada Revenue Agency (CRA) will revoke the registration of Jewish National Fund of Canada (Keren Kayemeth Le'Israel) Inc. / Fonds National Juif du Canada (Keren Kayemeth Le'Israel) Inc. (the Organization), based in Montréal, Quebec.

Commented [AC1]: TBD

The Organization

The Organization was registered as a charitable organization effective January 1, 1967 "to create, provide, enlarge and administer a fund to be made up of voluntary contributions from the Jewish community and others to be used for charitable purposes." Its primary purpose has been to create and administer a fund, made up of contributions from the Jewish community and others, and it reports ongoing operations in Israel.

Media, Public Interest, and Leads History

The Organization has garnered significant attention from the media and has been the subject of various letter writing campaigns and complaints from members of the public. Such public complaints usually relate to the Organization's activities and policies, which are perceived to be contrary to Canadian public policy and international law. Some notable examples follow.

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On January 4, 2019, a CBC News [article](#) was published by Evan Dyer. The article states the Organization has been the subject of a CRA audit over a complaint that it used charitable donations to build infrastructure for the Israel Defence Forces (IDF), which would not be compliant with Canada's tax rules. The article focuses on infrastructure projects funded by the Organization on Israeli army, air and naval bases. The article also questions the Organization's transparency as to how much is spent on planting trees, irrigation, or education, and how much is spent on projects for the IDF.

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In February 2014, the CRA began receiving numerous identical postcards related to the Organization through its Ministerial Correspondence workflow. The postcards were addressed to the Minister of National Revenue, and were each signed by a different taxpayer. The postcards requested that the CRA "revoke the charitable status of the Jewish National Fund (JNF) of Canada [as the] JNF's activities and policies run contrary to Canadian and international law." Each postcard bears the logos of the following two organizations: Independent Jewish Voices and Stop the JNF Canada. On its [website](#), Independent Jewish Voices states that Stop the JNF Canada and Independent Jewish Voices created the postcards. The CRA received over 1,000 postcards as part of this campaign.

Audit
The Organization was previously audited in 1978, 1983, 1987, and 1997. The previous audits were closed without the CRA informing the Organization of the results of the audits.

The Organization was selected for the current audit 16(1)(c) This audit was conducted for the Organization's fiscal periods from January 1, 2011, to December 31, 2012.

Commented [TG2]: Wbec?

Administrative Fairness Letters

Following our current review, an Administrative Fairness Letter (AFL 1) was issued to the Organization on May 12, 2016, which addressed a number of areas of non-compliance, such as the Organization's failure to be constituted and operated for exclusively charitable purposes, failure to devote resources to charitable activities carried on by the Organization itself, and failure to maintain adequate books and records.

16(1)(c)

The Organization submitted a substantive response to AFL 1 (over 100 pages) dated September 12, 2016, which did not alleviate all of the concerns and raised additional ones.

A second AFL (AFL 2) was issued to the Organization on April 19, 2018. The specific areas of non-compliance with the provisions of the Act and/or its Regulations outlined in AFL 2 were as follows:

1) Failure to be constituted for exclusively charitable purposes

In AFL 2, we reiterated our view from AFL 1 that the Organization's stated purposes are broad and vague. In its response dated September 12, 2016, the Organization agreed that its purposes could be more specific and presented new proposed purposes.

The Organization claimed that it relieves poverty by providing employment to indigent workers. Our position is that this activity serves as a means to advance an unstated non-charitable purpose, broadly supporting the work of JNF.

The Organization also asserted that some of its activities advance religion because of its religious underpinnings. It is the CRA's position that the Organization's activities do not advance religion in the charitable sense because religious motivation is not a pertinent consideration, and will not transform a secular activity into one directed toward religious advancement.

2) Failure to devote resources to charitable activities carried on by the Organization itself

a) Lack of direction and control over the use of resources/resourcing non-qualified donees

The Organization has stated that its activities were mainly conducted through an intermediary, JNF. Our audit determined that the information and documentation provided by the Organization did not substantiate this position.

We reviewed the JNF webpage, which characterizes the Organization as a 'donating country' and not a registered charity that directs and controls its own activities, with the JNF acting as its intermediary. While the Organization

Commented [TG4]: Seems an odd nomenclature?

has stated that it is independent of JNF, and involved in water, environmental, and development projects in the Middle East, we were unable to distinguish between the activities of the Organization and those of JNF.

The audit also found issues with the Organization's unexecuted general agency agreement template (lack of project specific detailed information), its annual budget, an overall lack of documentation showing ongoing monitoring and supervision of its purported activities, and its use of subcontractors.

b) Conduct of non-charitable activities

Our concerns in this context focused on two issues:

- We identified projects supported by the Organization that were being carried out in the Occupied Territories. We took the position that establishing and maintaining physical and social infrastructure elements and providing assistance to Israeli settlements in the Occupied Territories serves to encourage and enhance the permanency of the infrastructure and settlements, and thus appears to be contrary to Canada's public policy and international law on this issue. The stated Canadian public policy we relied upon was the Global Affairs Canada policy, "[Canadian Policy on Key Issues in the Israeli-Palestinian Conflict](#)". However, following consideration of the Organization's representations, our position regarding the Organization's activities in the Occupied Territories has changed. We agree that the stated Canadian public policy from Global Affairs Canada does not meet the judicial requirement.
- We identified projects where the Organization's resources were used to conduct activities in support of the Israel Defense Forces (IDF). We explained that some activities may not be charitable when carried on in a different country, for example, increasing the effectiveness and efficiency of Canada's armed forces is charitable, but supporting the armed forces of another country is not.

21(1)(b)

3) Failure to Maintain Adequate Books and Records

Our audit determined that the Organization did not maintain adequate books and records to prove that its charitable status should not be revoked. The following concerns were raised in this context:

- We were unable to verify the projects and other details relating to whether the Organization's resources were devoted to its own charitable activities, because some relevant materials were in Hebrew and not "in such form as will enable the Minister to determine whether there are any grounds for the revocation of its registration under this Act."
- The Organization failed to produce source documentation that would allow us to verify resources disbursed by the Organization through its intermediary.
- The agency agreement and supporting documentation did not establish that the Organization's activities were effectively authorized, controlled and monitored by the Organization.
- Supporting documentation was not provided that would allow us to verify that expenses for travel, hotel, meals, gas, telephone, mileage, miscellaneous, and entertainment related to the conduct of charitable activities.

Charity Response

The Organization submitted written responses to our AFLs dated September 12, 2016, May 17, 2018, and October 5, 2018.

In its representations, the Organization:

- Asserted its willingness to amend its purposes and change its activities accordingly, and outlined its limited efforts to show that it is distinct from JNF;
- Outlined steps it has taken to inform its volunteers, staff and intermediaries of their responsibilities as leaders of a Canadian registered charity and made other commitments to exercise required control. However, no documents were provided to show that the Organization adequately directs and controls its purported activities;
- Stated its view that "the pronouncement [the public policy posted on the Global Affairs website referred to above] falls short of a "definite and somehow officially declared and implemented policy" prohibiting Canadian charities from operating in the Territories", and that it "stopped performing activities on IDF military bases in 2016"; and
- Stated it would "commit to better record-keeping practices", but lacked documentation to support this change.

After having considered the Organization's representations, our position regarding its activities in the Occupied Territories has changed. We agree that the stated Canadian public policy from Global Affairs Canada does not meet the judicial requirement¹.

21(1)(b)

24(1)

24(1)

¹ Everywoman's Health Centre Society (1988) v. Minister of National Revenue, [1992] 2 F.C. 52 at para. 16.

Furthermore, whether an organization is constituted exclusively for charitable purposes, as explained in both AFLs, cannot be determined solely by reference to its stated purposes, and must take into account the activities carried on by the Organization. Our review of the Organization's current webpages and of its magazine shows that it does not adequately distinguish its activities from those of JNF. In addition, the information and documentation we have been able to review does not alleviate our concern that the Organization's purported activities include supporting the armed forces of another country.

In summary, we reviewed and considered the Organization's response and it is our view that the concerns expressed in the AFLs, except for our concerns relating to the activities in the Occupied Territories, were not alleviated by the Organization's representations.

Factors for Decision

The audit by the CRA found a number of serious areas of non-compliance, including failure to be constituted for exclusively for charitable purposes; failure to devote resources to charitable activities carried on by the Organization itself due to a lack of direction and control over the use of resources/sourcing non-qualified donees and conducting non-charitable activities; and failure to maintain adequate books and records.

In addition, the total revenue and tax-receipted revenue reported for fiscal periods 2015 to 2017 are substantial:

2017 Total tax-receipted revenue: \$5,952,189; Total revenue: \$15,385,685 (38%)

2016 Total tax-receipted revenue: \$6,870,844; Total revenue: \$29,064,915 (24%)

2015 Total tax-receipted revenue: \$5,952,189; Total revenue: \$15,386,685 (39%)

Therefore, it is our position that the Organization should be revoked for cause.

Decision

Taking all the considerations into account, the Organization was issued a 90-day Notice of Intention to Revoke on [date of revocation/sanction]. If the Organization believes that the CRA has misinterpreted the facts or applied the law incorrectly, it can avail itself of its recourse rights by filing an objection with the Appeals Branch within 90 days from the date of the Notice of Intention to Revoke. In most cases, the CRA will allow a charity to exhaust its objection and appeal rights before revoking registration.

Commented [AC7]: TBD

Program action and next steps

- **Date of publication in the Canada Gazette:** [Date]
- **News Release:** No
- **Media Lines:** Yes
- **Questions and Answers:** No

Commented [AC8]: TBD

A Notice of Intention to Revoke was sent to the Organization dated [Date].

Commented [AC9]: TBD

As stated in the Notice of Intention to Revoke [note that media spokespersons must repeat any portion of or the entirety of this quote verbatim]:

"The audit by the CRA found that the Organization is not complying with the requirements set out in the Act. In particular, it was found that the Organization failed to be constituted for exclusively charitable purposes, failed to devote resources to charitable activities carried on by the Organization itself, and failed to maintain adequate books and records. For all of these reasons, and for each reason alone, it is the position of the CRA that the Organization no longer meets the requirements for charitable registration and should be revoked in the manner described in subsection 168(1) of the Act."

Public information

- The CRA has a responsibility to protect the integrity of the tax system and the charitable sector by ensuring that all registered charities follow the rules associated with registration.
- Registered charities must be established for exclusively charitable purposes as defined by law.
- A registered charity must devote substantially all of its resources to activities in support of the charitable purposes for which it was registered.
- The Income Tax Act allows a registered charity to carry out its charitable purposes in only two ways: it can make gifts to other organizations that are qualified donees, or it can carry on its own charitable activities.
- When carrying out its own activities, a registered charity must ensure it maintains direction and control over the use of its resources.
- A registered charity is prohibited from gifting its resources to non-qualified donees.



- Registered charities must keep adequate books and records to allow the CRA to verify donations made to the charity, and to ensure the proper use of charitable resources.
- When an audit uncovers that a registered charity is not following the Act, the CRA will send the charity a letter that outlines in detail each of the CRA's concerns; provide its preliminary view of whether the charity needs to take corrective actions or whether the non-compliance warrants imposing sanctions or revoking or annulling the charity's registration; and, provide the charity the opportunity to make representations before the CRA comes to a final decision.

Renseignements publics

- L'ARC a la responsabilité de protéger l'intégrité du régime fiscal et du secteur de la bienfaisance en s'assurant que tous les organismes de bienfaisance enregistrés suivent les règles relatives à l'enregistrement.
- Les organismes de bienfaisance enregistrés doivent être établis exclusivement à des fins de bienfaisance, lesquelles sont définies en droit.
- Un organisme de bienfaisance enregistré doit consacrer la plupart de ses ressources à des activités qui appuient les fins de bienfaisance pour lesquelles il a été enregistré.
- La Loi de l'impôt sur le revenu permet à un organisme de bienfaisance enregistré de réaliser ses fins de bienfaisance de deux façons seulement : il peut faire des dons à d'autres organismes qui sont des donataires reconnus, ou il peut mener ses propres activités de bienfaisance.
- Lorsqu'il exerce ses propres activités, un organisme de bienfaisance enregistré doit conserver la direction et le contrôle sur l'utilisation de ses ressources.
- Il est interdit à un organisme de bienfaisance enregistré de faire le don de ses ressources à des donataires non reconnus.
- Les organismes de bienfaisance enregistrés doivent tenir des livres et registres comptables suffisants afin de permettre à l'ARC de vérifier les dons versés à l'organisme de bienfaisance et d'assurer l'utilisation appropriée des ressources de bienfaisance.
- Si, dans le cadre d'une vérification, l'ARC découvre qu'un organisme de bienfaisance enregistré n'observe pas la loi, elle lui enverra une lettre qui a pour but d'exposer en détail chacune de ses préoccupations; lui expliquera sa position préliminaire sur la question de savoir si l'organisme doit prendre des mesures correctives ou si l'inobservation justifie l'imposition de sanctions ou la révocation ou l'annulation de son enregistrement; et, lui donnera l'opportunité de présenter des représentations avant que l'ARC prenne une décision définitive.

Prepared by:	In consultation with:	Approved by:	Approved by:	Approved by:
Shane Byrnes Senior Policy Analyst Charities Directorate LPRAB	Alexandre Chapados Technical Policy Advisor Charities Directorate LPRAB	Lindsay Bielby Acting Director, CISD Charities Directorate LPRAB	Tony Manconi Director General Charities Directorate LPRAB	Geoff Trueman Assistant Commissioner LPRAB
March 14, 2019	March 18, 2019	March 21, 2019	[Date approved]	[Date approved]





Case Info Sheet

Taxpayer identification

Name of taxpayer or business: Jewish National Fund of Canada (Keren Kayemeth Le'Israel) Inc. /
Fonds National Juif du Canada (Keren Kayemeth Le'Israel) Inc.

RC161, Authorization for Parliamentarians, signed:

Issue or enquiry

Issue
Effective, [date of revocation/sanction] in accordance with the Income Tax Act, the Canada Revenue Agency (CRA) will revoke the registration of Jewish National Fund of Canada (Keren Kayemeth Le'Israel) Inc. / Fonds National Juif du Canada (Keren Kayemeth Le'Israel) Inc. (the Organization), based in Montréal, Quebec.

Commented [AC1]: TBD

The Organization

The Organization was registered as a charitable organization effective January 1, 1967 "to create, provide, enlarge and administer a fund to be made up of voluntary contributions from the Jewish community and others to be used for charitable purposes." Its primary purpose has been to create and administer a fund, made up of contributions from the Jewish community and others, and it reports ongoing operations in Israel.

Media, Public Interest, and Leads History

The Organization has garnered significant attention from the media and has been the subject of various letter writing campaigns and complaints from members of the public. Such public complaints usually relate to the Organization's activities and policies, which are perceived to be contrary to Canadian public policy and international law. Some notable examples follow.

Independent Jewish Voices, a vocal opponent of the Organization, is behind a current [public petition/complaint to Minister LeBouthillier](#), which includes statements that the Organization is the Canadian fundraising arm of Keren Kayemeth Le'Israel-Jewish National Fund (JNF) in Israel (the largest private landowner in the state), and is practicing institutional racial discrimination against Israel's non-Jewish population. On March 13, 2019, the Canadian Union of Postal Workers posted an [article](#) on its website calling on its members to sign Independent Jewish Voices' petition.

On January 9, 2019, an [e-petition](#) that calls upon the Minister of National Revenue to revoke the Organization's charitable status was initiated, sponsored by NDP MP Pierre-Luc Dusseault (Sherbrooke). On January 24, 2019, it was reported that the petition was also being supported by NDP MP Niki Ashton (Churchill—Keewatinook Aski), and endorsed by MPPs Joel Harden (Ottawa) and Rima Berns-McGown (Toronto). As of March 14, 2019, the petition has 2,173 signatures. Once the petition closes on May 9, 2019, it will be tabled in the House of Commons by the sponsoring MP, and subsequently assigned to the CRA for a formal response.

On January 4, 2019, a CBC News [article](#) was published by Evan Dyer. The article states the Organization has been the subject of a CRA audit over a complaint that it used charitable donations to build infrastructure for the Israel Defence Forces (IDF), which would not be compliant with Canada's tax rules. The article focuses on infrastructure projects funded by the Organization on Israeli army, air and naval bases. The article also questions the Organization's transparency as to how much is spent on planting trees, irrigation, or education, and how much is spent on projects for the IDF.

THIS MAY CONTAIN INFORMATION PROTECTED BY SUBSECTION 241(1) OF THE INCOME TAX ACT, SUBSECTION 293(2) OF THE EXCISE TAX ACT, SUBSECTION 211(2) OF THE EXCISE ACT, 2001 OR SECTIONS 7 AND 8 OF THE PRIVACY ACT. THIS INFORMATION CAN ONLY BE USED OR DISCLOSED FOR A PURPOSE AUTHORIZED BY LAW. THIS INFORMATION MAY BE USED OR DISCLOSED FOR THE PURPOSES OF ADMINISTERING THE ACTS LISTED ABOVE, OR DISCLOSED TO THE TAXPAYER OR AN AUTHORIZED REPRESENTATIVE OF THE TAXPAYER SUBJECT TO THE CONDITIONS OF THE APPROPRIATE ACT LISTED ABOVE AND APPLICABLE POLICIES. UNAUTHORIZED USE OR DISCLOSURE OF THE INFORMATION CONTAINED WITHIN THIS DOCUMENT MAY RESULT IN CRIMINAL PROSECUTION, CIVIL CLAIMS, OR DISCIPLINARY ACTION.

16(1)(c)

Also in 2016, there was media attention regarding the Organization, as a recommendation for the revocation of its charitable status was one of two foreign policy resolutions put forward at the Green Party of Canada's convention. Initially, the resolution called on the CRA to revoke the Organization's charitable status for contravening public policy against discrimination and for its failure to comply with international human rights law. However, the resolution that was passed removed the reference to any particular organization and instead added to its policies: "the revocation of charitable status from organizations complicit in international rights violations."

In February 2014, the CRA began receiving numerous identical postcards related to the Organization through its Ministerial Correspondence workflow. The postcards were addressed to the Minister of National Revenue, and were each signed by a different taxpayer. The postcards requested that the CRA "revoke the charitable status of the Jewish National Fund (JNF) of Canada [as the] JNF's activities and policies run contrary to Canadian and international law." Each postcard bears the logos of the following two organizations: Independent Jewish Voices and Stop the JNF Canada. On its [website](#), Independent Jewish Voices states that Stop the JNF Canada and Independent Jewish Voices created the postcards. The CRA received over 1,000 postcards as part of this campaign.

Audit
The Organization was previously audited in 1978, 1983, 1987, and 1997. The previous audits were closed without the CRA informing the Organization of the results of the audits.

The Organization was advised that it was selected for the current audit on May 1, 2014. 16(1)(c)
This audit was conducted for the Organization's fiscal periods from January 1, 2011, to December 31, 2012.

Administrative Fairness Letters

Following our current review, an Administrative Fairness Letter (AFL 1) was issued to the Organization on May 12, 2016, which addressed a number of areas of non-compliance, such as the Organization's failure to be constituted and operated for exclusively charitable purposes, failure to devote resources to charitable activities carried on by the Organization itself, and failure to maintain adequate books and records.

The Organization submitted a substantive response to AFL 1 (over 100 pages) dated September 12, 2016, which did not alleviate all of the concerns and raised additional ones.

A second AFL (AFL 2) was issued to the Organization on April 19, 2018. The specific areas of non-compliance with the provisions of the Act and/or its Regulations outlined in AFL 2 were as follows:

1) Failure to be constituted for exclusively charitable purposes

In AFL 2, we reiterated our view from AFL 1 that the Organization's stated purposes are broad and vague. In its response dated September 12, 2016, the Organization agreed that its purposes could be more specific and presented new proposed purposes.

The Organization claimed that it relieves poverty by providing employment to indigent workers. Our position is that this activity serves as a means to advance an unstated non-charitable purpose, broadly supporting the work of JNF.

The Organization also asserted that some of its activities advance religion because of its religious underpinnings. It is the CRA's position that the Organization's activities do not advance religion in the charitable sense because religious motivation is not a pertinent consideration, and will not transform a secular activity into one directed toward religious advancement.

2) Failure to devote resources to charitable activities carried on by the Organization itself

a) Lack of direction and control over the use of resources/resourcing non-qualified donees

The Organization has stated that its activities were mainly conducted through an intermediary, JNF. Our audit determined that the information and documentation provided by the Organization did not substantiate this position.

We reviewed the JNF webpage, which characterizes the Organization as a 'donating country' and not a registered charity that directs and controls its own activities, with the JNF acting as its intermediary. While the Organization

Commented [TG2]: Wbec?

Commented [DR3R2]: The Organization was advised that it was selected for audit on May 1, 2014.

16(1)(c)

Commented [TG6]: Seems an odd nomenclature?

Commented [DR7R6]: This term is used by the Organization in the source records provided. We have referred to this term in the second AFL sent to the Organization, and in Appendix A of the NTR.

has stated that it is independent of JNF, and involved in water, environmental, and development projects in the Middle East, we were unable to distinguish between the activities of the Organization and those of JNF.

The audit also found issues with the Organization's unexecuted general agency agreement template (lack of project specific detailed information), its annual budget, an overall lack of documentation showing ongoing monitoring and supervision of its purported activities, and its use of subcontractors.

b) Conduct of non-charitable activities

Our concerns in this context focused on two issues:

- We identified projects supported by the Organization that were being carried out in the Occupied Territories. We took the position that establishing and maintaining physical and social infrastructure elements and providing assistance to Israeli settlements in the Occupied Territories serves to encourage and enhance the permanency of the infrastructure and settlements, and thus appears to be contrary to Canada's public policy and international law on this issue. The stated Canadian public policy we relied upon was the Global Affairs Canada policy, "[Canadian Policy on Key Issues in the Israeli-Palestinian Conflict](#)". However, following consideration of the Organization's representations, our position regarding the Organization's activities in the Occupied Territories has changed. We agree that the stated Canadian public policy from Global Affairs Canada does not meet the judicial requirement as established by the Federal Court of Appeal (Everywoman's Health Centre Society (1988) v. Minister of National Revenue [1992] 2 F.C. 52 at para. 16), which found that "...for an activity to be considered as 'contrary to public policy,' there must be a definite and somehow officially declared and implemented policy".
- We identified projects where the Organization's resources were used to conduct activities in support of the Israel Defense Forces (IDF). We explained that some activities may not be charitable when carried on in a different country, for example, increasing the effectiveness and efficiency of Canada's armed forces is charitable, but supporting the armed forces of another country is not.

21(1)(b)

3) Failure to Maintain Adequate Books and Records

Our audit determined that the Organization did not maintain adequate books and records to prove that its charitable status should not be revoked. The following concerns were raised in this context:

- We were unable to verify the projects and other details relating to whether the Organization's resources were devoted to its own charitable activities, because some relevant materials were in Hebrew and not "in such form as will enable the Minister to determine whether there are any grounds for the revocation of its registration under this Act."
- The Organization failed to produce source documentation that would allow us to verify resources disbursed by the Organization through its intermediary.
- The agency agreement and supporting documentation did not establish that the Organization's activities were effectively authorized, controlled and monitored by the Organization.
- Supporting documentation was not provided that would allow us to verify that expenses for travel, hotel, meals, gas, telephone, mileage, miscellaneous, and entertainment related to the conduct of charitable activities.

Charity Response

The Organization submitted written responses to our AFLs dated September 12, 2016, May 17, 2018, and October 5, 2018.

In its representations, the Organization:

- Asserted its willingness to amend its purposes and change its activities accordingly, and outlined its limited efforts to show that it is distinct from JNF;
- Outlined steps it has taken to inform its volunteers, staff and intermediaries of their responsibilities as leaders of a Canadian registered charity and made other commitments to exercise required control. However, no documents were provided to show that the Organization adequately directs and controls its purported activities;
- Stated its view that "the pronouncement [the public policy posted on the Global Affairs website referred to above] falls short of a "definite and somehow officially declared and implemented policy" prohibiting Canadian charities from operating in the Territories", and that it "stopped performing activities on IDF military bases in 2016"; and
- Stated it would "commit to better record-keeping practices", but lacked documentation to support this change.

²Everywoman's Health Centre Society (1988) v. Minister of National Revenue, [1992] 2 F.C. 52 at para. 16.



After having considered the Organization's representations, our position regarding its activities in the Occupied Territories has changed. The CRA's letter outlining the grounds for revocation advised that we agree with the Organization that the stated Canadian public policy from Global Affairs Canada does not meet the judicial requirement—and we have withdrawn our previous position, raised in AFL 2, that the Organization's activities in the Occupied Territories are contrary to Canada's public policy.

21(1)(b)
24(1) 24(1)

Furthermore, whether an organization is constituted exclusively for charitable purposes, as explained in both AFLs, cannot be determined solely by reference to its stated purposes, and must take into account the activities carried on by the Organization. Our review of the Organization's current webpages and of its magazine shows that it does not adequately distinguish its activities from those of JNF. In addition, the information and documentation we have been able to review does not alleviate our concern that the Organization's purported activities include supporting the armed forces of another country.

In summary, we reviewed and considered the Organization's response and it is our view that the concerns expressed in the AFLs, except for our concerns relating to the activities in the Occupied Territories, were not alleviated by the Organization's representations.

Factors for Decision

The audit by the CRA found a number of serious areas of non-compliance, including failure to be constituted for exclusively for charitable purposes; failure to devote resources to charitable activities carried on by the Organization itself due to a lack of direction and control over the use of resources/resourcing non-qualified donees and conducting non-charitable activities; and failure to maintain adequate books and records.

In addition, the total revenue and tax-receipted revenue reported for fiscal periods 2015 to 2017 are substantial:

- 2017 Total tax-receipted revenue: \$5,952,189; Total revenue: \$15,385,685 (36%)
- 2016 Total tax-receipted revenue: \$6,870,844; Total revenue: \$29,064,915 (24%)
- 2015 Total tax-receipted revenue: \$5,952,189; Total revenue: \$15,386,685 (39%)

Therefore, it is our position that the Organization should be revoked for cause. While the Organization's representations expressed a commitment to take steps in the future to enhance its compliance with the Act, the information and documentation provided to us does not demonstrate how the Organization will operate in such a manner – the Organization has not demonstrated that its purposes are exclusively charitable, nor has it shown how its activities will be conducted in accordance with the Act and common law. Therefore, it is our position that the Organization should be revoked for cause.

Decision

Taking all the considerations into account, the Organization was issued a 90-day Notice of Intention to Revoke on [date of revocation/sanction]. If the Organization believes that the CRA has misinterpreted the facts or applied the law incorrectly, it can avail itself of its recourse rights by filing an objection with the Appeals Branch within 90 days from the date of the Notice of Intention to Revoke. In most cases, the CRA will allow a charity to exhaust its objection and appeal rights before revoking registration.

Commented [AC12]: TBD

Program action and next steps

- **Date of publication in the Canada Gazette:** [Date]
- **News Release:** No
- **Media Lines:** Yes
- **Questions and Answers:** No

Commented [AC13]: TBD

A Notice of Intention to Revoke was sent to the Organization dated [Date].

Commented [AC14]: TBD

As stated in the Notice of Intention to Revoke [note that media spokespersons must repeat any portion of or the entirety of this quote verbatim]:

"The audit by the CRA found that the Organization is not complying with the requirements set out in the Act. In particular, it was found that the Organization failed to be constituted for exclusively charitable purposes, failed to devote resources to charitable activities carried on by the Organization itself, and failed to maintain adequate books and records. For all of these reasons, and for each reason alone, it is the position of the CRA that the Organization no longer meets the requirements for charitable registration and should be revoked in the manner described in subsection 168(1) of the Act."

Public information

- The CRA has a responsibility to protect the integrity of the tax system and the charitable sector by ensuring that all registered charities follow the rules associated with registration.
- Registered charities must be established for exclusively charitable purposes as defined by law.
- A registered charity must devote substantially all of its resources to activities in support of the charitable purposes for which it was registered.
- The Income Tax Act allows a registered charity to carry out its charitable purposes in only two ways: it can make gifts to other organizations that are qualified donees, or it can carry on its own charitable activities.
- When carrying out its own activities, a registered charity must ensure it maintains direction and control over the use of its resources.
- A registered charity is prohibited from gifting its resources to non-qualified donees.
- Registered charities must keep adequate books and records to allow the CRA to verify donations made to the charity, and to ensure the proper use of charitable resources.
- When an audit uncovers that a registered charity is not following the Act, the CRA will send the charity a letter that outlines in detail each of the CRA's concerns; provide its preliminary view of whether the charity needs to take corrective actions or whether the non-compliance warrants imposing sanctions or revoking or annulling the charity's registration; and, provide the charity the opportunity to make representations before the CRA comes to a final decision.

Renseignements publics

- L'ARC a la responsabilité de protéger l'intégrité du régime fiscal et du secteur de la bienfaisance en s'assurant que tous les organismes de bienfaisance enregistrés suivent les règles relatives à l'enregistrement.
- Les organismes de bienfaisance enregistrés doivent être établis exclusivement à des fins de bienfaisance, lesquelles sont définies en droit.
- Un organisme de bienfaisance enregistré doit consacrer la plupart de ses ressources à des activités qui appuient les fins de bienfaisance pour lesquelles il a été enregistré.
- La Loi de l'impôt sur le revenu permet à un organisme de bienfaisance enregistré de réaliser ses fins de bienfaisance de deux façons seulement : il peut faire des dons à d'autres organismes qui sont des donataires reconnus, ou il peut mener ses propres activités de bienfaisance.
- Lorsqu'il exerce ses propres activités, un organisme de bienfaisance enregistré doit conserver la direction et le contrôle sur l'utilisation de ses ressources.
- Il est interdit à un organisme de bienfaisance enregistré de faire le don de ses ressources à des donataires non reconnus.
- Les organismes de bienfaisance enregistrés doivent tenir des livres et registres comptables suffisants afin de permettre à l'ARC de vérifier les dons versés à l'organisme de bienfaisance et d'assurer l'utilisation appropriée des ressources de bienfaisance.
- Si, dans le cadre d'une vérification, l'ARC découvre qu'un organisme de bienfaisance enregistré n'observe pas la loi, elle lui enverra une lettre qui a pour but d'exposer en détail chacune de ses préoccupations; lui expliquera sa position préliminaire sur la question de savoir si l'organisme doit prendre des mesures correctives ou si l'inobservation justifie l'imposition de sanctions ou la révocation ou l'annulation de son enregistrement; et, lui donnera l'opportunité de présenter des représentations avant que l'ARC prenne une décision définitive.

Prepared by:	In consultation with:	Approved by:	Approved by:	Approved by:
Shane Byrnes Senior Policy Analyst Charities Directorate LPRAB	Alexandre Chapados Technical Policy Advisor Charities Directorate LPRAB	Lindsay Bielby Acting Director, CISD Charities Directorate LPRAB	Tony Manconi Director General Charities Directorate LPRAB	Geoff Trueman Assistant Commissioner LPRAB
March 14, 2019	March 18, 2019	March 21, 2019	[Date approved]	[Date approved]





Case Info Sheet

Taxpayer identification

Name of taxpayer or business: Jewish National Fund of Canada (Keren Kayemeth Le'Israel) Inc. /
Fonds National Juif du Canada (Keren Kayemeth Le'Israel) Inc.

RC161, Authorization for Parliamentarians, signed:

Issue or enquiry

Issue
Effective, [date of revocation/sanction] in accordance with the Income Tax Act, the Canada Revenue Agency (CRA) will revoke the registration of Jewish National Fund of Canada (Keren Kayemeth Le'Israel) Inc. / Fonds National Juif du Canada (Keren Kayemeth Le'Israel) Inc. (the Organization), based in Montréal, Quebec.

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The Organization

The Organization was registered as a charitable organization effective January 1, 1967 "to create, provide, enlarge and administer a fund to be made up of voluntary contributions from the Jewish community and others to be used for charitable purposes." Its primary purpose has been to create and administer a fund, made up of contributions from the Jewish community and others, and it reports ongoing operations in Israel.

Media, Public Interest, and Leads History

The Organization has garnered significant attention from the media and has been the subject of various letter writing campaigns and complaints from members of the public. Such public complaints usually relate to the Organization's activities and policies, which are perceived to be contrary to Canadian public policy and international law. Some notable examples follow.

Independent Jewish Voices, a vocal opponent of the Organization, is behind a current [public petition/complaint to Minister LeBouthillier](#), which includes statements that the Organization is the Canadian fundraising arm of Keren Kayemeth Le'Israel-Jewish National Fund (JNF) in Israel (the largest private landowner in the state), and is practicing institutional racial discrimination against Israel's non-Jewish population. On March 13, 2019, the Canadian Union of Postal Workers posted an [article](#) on its website calling on its members to sign Independent Jewish Voices' petition.

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Audit
The Organization was previously audited in 1978, 1983, 1987, and 1997. The previous audits were closed without the CRA informing the Organization of the results of the audits.

In May 2014, the Organization was advised that it was selected for the current audit on May 1, 2014. 16(1)(c)
This audit was conducted for the Organization's fiscal periods from January 1, 2011, to December 31, 2012.

Administrative Fairness Letters

Following our current review, an Administrative Fairness Letter (AFL 1) was issued to the Organization on May 12, 2016, which addressed a number of areas of non-compliance, such as the Organization's failure to be constituted and operated for exclusively charitable purposes, failure to devote resources to charitable activities carried on by the Organization itself, and failure to maintain adequate books and records.

The Organization submitted a substantive response to AFL 1 (over 100 pages) dated September 12, 2016, which did not alleviate all of the concerns and raised additional ones.

A second AFL (AFL 2) was issued to the Organization on April 19, 2018. The specific areas of non-compliance with the provisions of the Act and/or its Regulations outlined in AFL 2 were as follows:

1) Failure to be constituted for exclusively charitable purposes

In AFL 2, we reiterated our view from AFL 1 that the Organization's stated purposes are broad and vague. In its response dated September 12, 2016, the Organization agreed that its purposes could be more specific and presented new proposed purposes.

The Organization claimed that it relieves poverty by providing employment to indigent workers. Our position is that this activity serves as a means to advance an unstated non-charitable purpose, broadly supporting the work of JNF.

The Organization also asserted that some of its activities advance religion because of its religious underpinnings. It is the CRA's position that the Organization's activities do not advance religion in the charitable sense because religious motivation is not a pertinent consideration, and will not transform a secular activity into one directed toward religious advancement.

2) Failure to devote resources to charitable activities carried on by the Organization itself

a) Lack of direction and control over the use of resources/resourcing non-qualified donees

The Organization has stated that its activities were mainly conducted through an intermediary, JNF. Our audit determined that the information and documentation provided by the Organization did not substantiate this position.

We reviewed the JNF webpage, which characterizes the Organization as a 'donating country' and not a registered charity that directs and controls its own activities, with the JNF acting as its intermediary. While the Organization

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has stated that it is independent of JNF, and involved in water, environmental, and development projects in the Middle East, we were unable to distinguish between the activities of the Organization and those of JNF.

The audit also found issues with the Organization's unexecuted general agency agreement template (lack of project specific detailed information), its annual budget, an overall lack of documentation showing ongoing monitoring and supervision of its purported activities, and its use of subcontractors.

b) Conduct of non-charitable activities

Our concerns in this context focused on two issues:

- We identified projects supported by the Organization that were being carried out in the Occupied Territories. We took the position that establishing and maintaining physical and social infrastructure elements and providing assistance to Israeli settlements in the Occupied Territories serves to encourage and enhance the permanency of the infrastructure and settlements, and thus appears to be contrary to Canada's public policy and international law on this issue. The stated Canadian public policy we relied upon was the Global Affairs Canada policy, "[Canadian Policy on Key Issues in the Israeli-Palestinian Conflict](#)". However, following consideration of the Organization's representations, our position regarding the Organization's activities in the Occupied Territories has changed. We agree that the stated Canadian public policy from Global Affairs Canada does not meet the judicial requirement as established by the Federal Court of Appeal (Everywoman's Health Centre Society (1988) v. Minister of National Revenue [1992] 2 F.C. 52 at para. 16), which found that "...for an activity to be considered as 'contrary to public policy,' there must be a definite and somehow officially declared and implemented policy".
- We identified projects where the Organization's resources were used to conduct activities in support of the Israel Defense Forces (IDF). We explained that some activities may not be charitable when carried on in a different country, for example, increasing the effectiveness and efficiency of Canada's armed forces is charitable, but supporting the armed forces of another country is not.

21(1)(b)

3) Failure to Maintain Adequate Books and Records

Our audit determined that the Organization did not maintain adequate books and records to prove that its charitable status should not be revoked. The following concerns were raised in this context:

- We were unable to verify the projects and other details relating to whether the Organization's resources were devoted to its own charitable activities, because some relevant materials were in Hebrew and not "in such form as will enable the Minister to determine whether there are any grounds for the revocation of its registration under this Act."
- The Organization failed to produce source documentation that would allow us to verify resources disbursed by the Organization through its intermediary.
- The agency agreement and supporting documentation did not establish that the Organization's activities were effectively authorized, controlled and monitored by the Organization.
- Supporting documentation was not provided that would allow us to verify that expenses for travel, hotel, meals, gas, telephone, mileage, miscellaneous, and entertainment related to the conduct of charitable activities.

Charity Response

The Organization submitted written responses to our AFLs dated September 12, 2016, May 17, 2018, and October 5, 2018.

In its representations, the Organization:

- Asserted its willingness to amend its purposes and change its activities accordingly, and outlined its limited efforts to show that it is distinct from JNF;
- Outlined steps it has taken to inform its volunteers, staff and intermediaries of their responsibilities as leaders of a Canadian registered charity and made other commitments to exercise required control. However, no documents were provided to show that the Organization adequately directs and controls its purported activities;
- Stated its view that "the pronouncement [the public policy posted on the Global Affairs website referred to above] falls short of a "definite and somehow officially declared and implemented policy" prohibiting Canadian charities from operating in the Territories", and that it "stopped performing activities on IDF military bases in 2016"; and
- Stated it would "commit to better record-keeping practices", but lacked documentation to support this change.

²Everywoman's Health Centre Society (1988) v. Minister of National Revenue, [1992] 2 F.C. 52 at para. 16.



After having considered the Organization's representations, our position regarding its activities in the Occupied Territories has changed. The CRA's letter outlining the grounds for revocation advised that we agree with the Organization that the stated Canadian public policy from Global Affairs Canada does not meet the judicial requirement—and we have withdrawn our previous position, raised in AFL 2, that the Organization's activities in the Occupied Territories are contrary to Canada's public policy.

Furthermore, whether an organization is constituted exclusively for charitable purposes, as explained in both AFLs, cannot be determined solely by reference to its stated purposes, and must take into account the activities carried on by the Organization. Our review of the Organization's current webpages and of its magazine shows that it does not adequately distinguish its activities from those of JNF. In addition, the information and documentation we have been able to review does not alleviate our concern that the Organization's purported activities include supporting the armed forces of another country.

In summary, we reviewed and considered the Organization's response and it is our view that the concerns expressed in the AFLs, except for our concerns relating to the activities in the Occupied Territories, were not alleviated by the Organization's representations.

Factors for Decision

The audit by the CRA found a number of serious areas of non-compliance, including failure to be constituted for exclusively for charitable purposes; failure to devote resources to charitable activities carried on by the Organization itself due to a lack of direction and control over the use of resources/resourcing non-qualified donees and conducting non-charitable activities; and failure to maintain adequate books and records.

In addition, the total revenue and tax-receipted revenue reported for fiscal periods 2015 to 2017 are substantial:

- 2017 Total tax-receipted revenue: \$5,952,189; Total revenue: \$15,385,685 (38%)
- 2016 Total tax-receipted revenue: \$6,870,844; Total revenue: \$29,064,915 (24%)
- 2015 Total tax-receipted revenue: \$5,952,189; Total revenue: \$15,386,685 (39%)

Therefore, it is our position that the Organization should be revoked for cause. While the Organization's representations expressed a commitment to take steps in the future to enhance its compliance with the Act, the information and documentation provided to us does not demonstrate how the Organization will operate in such a manner – the Organization has not demonstrated that its purposes are exclusively charitable, nor has it shown how its activities will be conducted in accordance with the Act and common law. Therefore, it is our position that the Organization should be revoked for cause.

Decision

Taking all the considerations into account, the Organization was issued a 90-day Notice of Intention to Revoke on [date of revocation/sanction]. If the Organization believes that the CRA has misinterpreted the facts or applied the law incorrectly, it can avail itself of its recourse rights by filing an objection with the Appeals Branch within 90 days from the date of the Notice of Intention to Revoke. In most cases, the CRA will allow a charity to exhaust its objection and appeal rights before revoking registration.

Program action and next steps

- **Date of publication in the Canada Gazette:** [Date]
- **News Release:** No
- **Media Lines:** Yes
- **Questions and Answers:** No

A Notice of Intention to Revoke was sent to the Organization dated [Date].

As stated in the Notice of Intention to Revoke [note that media spokespersons must repeat any portion of or the entirety of this quote verbatim]:

"The audit by the CRA found that the Organization is not complying with the requirements set out in the Act. In particular, it was found that the Organization failed to be constituted for exclusively charitable purposes, failed to devote resources to charitable activities carried on by the Organization itself, and failed to maintain adequate books and records. For all of these reasons, and for each reason alone, it is the position of the CRA that the Organization no longer meets the requirements for charitable registration and should be revoked in the manner described in subsection 168(1) of the Act."

Public information

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21(1)(b)

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- The CRA has a responsibility to protect the integrity of the tax system and the charitable sector by ensuring that all registered charities follow the rules associated with registration.
- Registered charities must be established for exclusively charitable purposes as defined by law.
- A registered charity must devote substantially all of its resources to activities in support of the charitable purposes for which it was registered.
- The Income Tax Act allows a registered charity to carry out its charitable purposes in only two ways: it can make gifts to other organizations that are qualified donees, or it can carry on its own charitable activities.
- When carrying out its own activities, a registered charity must ensure it maintains direction and control over the use of its resources.
- A registered charity is prohibited from gifting its resources to non-qualified donees.
- Registered charities must keep adequate books and records to allow the CRA to verify donations made to the charity, and to ensure the proper use of charitable resources.
- When an audit uncovers that a registered charity is not following the Act, the CRA will send the charity a letter that outlines in detail each of the CRA's concerns; provide its preliminary view of whether the charity needs to take corrective actions or whether the non-compliance warrants imposing sanctions or revoking or annulling the charity's registration; and, provide the charity the opportunity to make representations before the CRA comes to a final decision.

Renseignements publics

- L'ARC a la responsabilité de protéger l'intégrité du régime fiscal et du secteur de la bienfaisance en s'assurant que tous les organismes de bienfaisance enregistrés suivent les règles relatives à l'enregistrement.
- Les organismes de bienfaisance enregistrés doivent être établis exclusivement à des fins de bienfaisance, lesquelles sont définies en droit.
- Un organisme de bienfaisance enregistré doit consacrer la plupart de ses ressources à des activités qui appuient les fins de bienfaisance pour lesquelles il a été enregistré.
- La Loi de l'impôt sur le revenu permet à un organisme de bienfaisance enregistré de réaliser ses fins de bienfaisance de deux façons seulement : il peut faire des dons à d'autres organismes qui sont des donataires reconnus, ou il peut mener ses propres activités de bienfaisance.
- Lorsqu'il exerce ses propres activités, un organisme de bienfaisance enregistré doit conserver la direction et le contrôle sur l'utilisation de ses ressources.
- Il est interdit à un organisme de bienfaisance enregistré de faire le don de ses ressources à des donataires non reconnus.
- Les organismes de bienfaisance enregistrés doivent tenir des livres et registres comptables suffisants afin de permettre à l'ARC de vérifier les dons versés à l'organisme de bienfaisance et d'assurer l'utilisation appropriée des ressources de bienfaisance.
- Si, dans le cadre d'une vérification, l'ARC découvre qu'un organisme de bienfaisance enregistré n'observe pas la loi, elle lui enverra une lettre qui a pour but d'exposer en détail chacune de ses préoccupations; lui expliquera sa position préliminaire sur la question de savoir si l'organisme doit prendre des mesures correctives ou si l'observation justifie l'imposition de sanctions ou la révocation ou l'annulation de son enregistrement; et, lui donnera l'opportunité de présenter des représentations avant que l'ARC prenne une décision définitive.

Prepared by:	In consultation with:	Approved by:	Approved by:	Approved by:
Shane Byrnes Senior Policy Analyst Charities Directorate LPRAB	Alexandre Chapados Technical Policy Advisor Charities Directorate LPRAB	Lindsay Bielby Acting Director, CISD Charities Directorate LPRAB	Tony Manconi Director General Charities Directorate LPRAB	Geoff Trueman Assistant Commissioner LPRAB
March 14, 2019	March 18, 2019	March 21, 2019	[Date approved]	[Date approved]





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Factors for Decision

The audit by the CRA found a number of serious areas of non-compliance, including failure to be constituted for exclusively for charitable purposes; failure to devote resources to charitable activities carried on by the Organization itself due to a lack of direction and control over the use of resources/resourcing non-qualified donees and conducting non-charitable activities; and failure to maintain adequate books and records.

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Therefore, it is our position that the Organization should be revoked for cause. While the Organization's representations expressed a commitment to take steps in the future to enhance its compliance with the Act, the information and documentation provided to us does not demonstrate how the Organization will operate in such a manner – the Organization has not demonstrated that its purposes are exclusively charitable, nor has it shown how its activities will be conducted in accordance with the Act and common law. Therefore, it is our position that the Organization should be revoked for cause.

Decision

Taking all the considerations into account, the Organization was issued a 90-day Notice of Intention to Revoke on [date of revocation/sanction]. If the Organization believes that the CRA has misinterpreted the facts or applied the law incorrectly, it can avail itself of its recourse rights by filing an objection with the Appeals Branch within 90 days from the date of the Notice of Intention to Revoke. In most cases, the CRA will allow a charity to exhaust its objection and appeal rights before revoking registration.

Program action and next steps

- **Date of publication in the Canada Gazette:** [Date]
- **News Release:** No
- **Media Lines:** Yes
- **Questions and Answers:** No

A Notice of Intention to Revoke was sent to the Organization dated [Date].

As stated in the Notice of Intention to Revoke [note that media spokespersons must repeat any portion of or the entirety of this quote verbatim]:

"The audit by the CRA found that the Organization is not complying with the requirements set out in the Act. In particular, it was found that the Organization failed to be constituted for exclusively charitable purposes, failed to devote resources to charitable activities carried on by the Organization itself, and failed to maintain adequate books and records. For all of these reasons, and for each reason alone, it is the position of the CRA that the Organization no longer meets the requirements for charitable registration and should be revoked in the manner described in subsection 168(1) of the Act."

Public information

21(1)(b)
24(1)
21(1)(b)
24(1)

Commented [AC13]: TBD

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- The CRA has a responsibility to protect the integrity of the tax system and the charitable sector by ensuring that all registered charities follow the rules associated with registration.
- Registered charities must be established for exclusively charitable purposes as defined by law.
- A registered charity must devote substantially all of its resources to activities in support of the charitable purposes for which it was registered.
- The Income Tax Act allows a registered charity to carry out its charitable purposes in only two ways: it can make gifts to other organizations that are qualified donees, or it can carry on its own charitable activities.
- When carrying out its own activities, a registered charity must ensure it maintains direction and control over the use of its resources.
- A registered charity is prohibited from gifting its resources to non-qualified donees.
- Registered charities must keep adequate books and records to allow the CRA to verify donations made to the charity, and to ensure the proper use of charitable resources.
- When an audit uncovers that a registered charity is not following the Act, the CRA will send the charity a letter that outlines in detail each of the CRA's concerns; provide its preliminary view of whether the charity needs to take corrective actions or whether the non-compliance warrants imposing sanctions or revoking or annulling the charity's registration; and, provide the charity the opportunity to make representations before the CRA comes to a final decision.

Renseignements publics

- L'ARC a la responsabilité de protéger l'intégrité du régime fiscal et du secteur de la bienfaisance en s'assurant que tous les organismes de bienfaisance enregistrés suivent les règles relatives à l'enregistrement.
- Les organismes de bienfaisance enregistrés doivent être établis exclusivement à des fins de bienfaisance, lesquelles sont définies en droit.
- Un organisme de bienfaisance enregistré doit consacrer la plupart de ses ressources à des activités qui appuient les fins de bienfaisance pour lesquelles il a été enregistré.
- La Loi de l'impôt sur le revenu permet à un organisme de bienfaisance enregistré de réaliser ses fins de bienfaisance de deux façons seulement : il peut faire des dons à d'autres organismes qui sont des donataires reconnus, ou il peut mener ses propres activités de bienfaisance.
- Lorsqu'il exerce ses propres activités, un organisme de bienfaisance enregistré doit conserver la direction et le contrôle sur l'utilisation de ses ressources.
- Il est interdit à un organisme de bienfaisance enregistré de faire le don de ses ressources à des donataires non reconnus.
- Les organismes de bienfaisance enregistrés doivent tenir des livres et registres comptables suffisants afin de permettre à l'ARC de vérifier les dons versés à l'organisme de bienfaisance et d'assurer l'utilisation appropriée des ressources de bienfaisance.
- Si, dans le cadre d'une vérification, l'ARC découvre qu'un organisme de bienfaisance enregistré n'observe pas la loi, elle lui enverra une lettre qui a pour but d'exposer en détail chacune de ses préoccupations; lui expliquera sa position préliminaire sur la question de savoir si l'organisme doit prendre des mesures correctives ou si l'observation justifie l'imposition de sanctions ou la révocation ou l'annulation de son enregistrement; et, lui donnera l'opportunité de présenter des représentations avant que l'ARC prenne une décision définitive.

Prepared by:	In consultation with:	Approved by:	Approved by:	Approved by:
Shane Byrnes Senior Policy Analyst Charities Directorate LPRAB	Alexandre Chapados Technical Policy Advisor Charities Directorate LPRAB	Lindsay Bielby Acting Director, CISD Charities Directorate LPRAB	Tony Manconi Director General Charities Directorate LPRAB	Geoff Trueman Assistant Commissioner LPRAB
March 14, 2019	March 18, 2019	March 21, 2019	[Date approved]	[Date approved]





Case Info Sheet

Taxpayer identification

Name of taxpayer or business: Jewish National Fund of Canada (Keren Kayemeth Le'Israel) Inc. /
Fonds National Juif du Canada (Keren Kayemeth Le'Israel) Inc.

RC161, Authorization for Parliamentarians, signed:

Issue or enquiry

Issue
Effective, [date of revocation/sanction] in accordance with the Income Tax Act, the Canada Revenue Agency (CRA) will revoke the registration of Jewish National Fund of Canada (Keren Kayemeth Le'Israel) Inc. / Fonds National Juif du Canada (Keren Kayemeth Le'Israel) Inc. (the Organization), based in Montréal, Quebec.

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The Organization

The Organization was registered as a charitable organization effective January 1, 1967 "to create, provide, enlarge and administer a fund to be made up of voluntary contributions from the Jewish community and others to be used for charitable purposes." Its primary purpose has been to create and administer a fund, made up of contributions from the Jewish community and others, and it reports ongoing operations in Israel.

Media, Public Interest, and Leads History

The Organization has garnered significant attention from the media and has been the subject of various letter writing campaigns and complaints from members of the public. Such public complaints usually relate to the Organization's activities and policies, which are perceived to be contrary to Canadian public policy and international law. Some notable examples follow.

Independent Jewish Voices, a vocal opponent of the Organization, is behind a current [public petition/complaint to Minister LeBouthillier](#), which includes statements that the Organization is the Canadian fundraising arm of Keren Kayemeth Le'Israel-Jewish National Fund (JNF) in Israel (the largest private landowner in the state), and is practicing institutional racial discrimination against Israel's non-Jewish population. On March 13, 2019, the Canadian Union of Postal Workers posted an [article](#) on its website calling on its members to sign Independent Jewish Voices' petition.

On January 9, 2019, an [e-petition](#) that calls upon the Minister of National Revenue to revoke the Organization's charitable status was initiated, sponsored by NDP MP Pierre-Luc Dusseault (Sherbrooke). On January 24, 2019, it was reported that the petition was also being supported by NDP MP Niki Ashton (Churchill—Keewatinook Aski), and endorsed by MPPs Joel Harden (Ottawa) and Rima Berns-McGown (Toronto). As of March 14, 2019, the petition has 2,173 signatures. Once the petition closes on May 9, 2019, it will be tabled in the House of Commons by the sponsoring MP, and subsequently assigned to the CRA for a formal response.

On January 4, 2019, a CBC News [article](#) was published by Evan Dyer. The article states the Organization has been the subject of a CRA audit over a complaint that it used charitable donations to build infrastructure for the Israel Defence Forces (IDF), which would not be compliant with Canada's tax rules. The article focuses on infrastructure projects funded by the Organization on Israeli army, air and naval bases. The article also questions the Organization's transparency as to how much is spent on planting trees, irrigation, or education, and how much is spent on projects for the IDF.

THIS MAY CONTAIN INFORMATION PROTECTED BY SUBSECTION 241(1) OF THE INCOME TAX ACT, SUBSECTION 293(2) OF THE EXCISE TAX ACT, SUBSECTION 211(2) OF THE EXCISE ACT, 2001 OR SECTIONS 7 AND 8 OF THE PRIVACY ACT. THIS INFORMATION CAN ONLY BE USED OR DISCLOSED FOR A PURPOSE AUTHORIZED BY LAW. THIS INFORMATION MAY BE USED OR DISCLOSED FOR THE PURPOSES OF ADMINISTERING THE ACTS LISTED ABOVE, OR DISCLOSED TO THE TAXPAYER OR AN AUTHORIZED REPRESENTATIVE OF THE TAXPAYER SUBJECT TO THE CONDITIONS OF THE APPROPRIATE ACT LISTED ABOVE AND APPLICABLE POLICIES. UNAUTHORIZED USE OR DISCLOSURE OF THE INFORMATION CONTAINED WITHIN THIS DOCUMENT MAY RESULT IN CRIMINAL PROSECUTION, CIVIL CLAIMS, OR DISCIPLINARY ACTION.

16(1)(c)

Also in 2016, there was media attention regarding the Organization, as a recommendation for the revocation of its charitable status was one of two foreign policy resolutions put forward at the Green Party of Canada's convention. Initially, the resolution called on the CRA to revoke the Organization's charitable status for contravening public policy against discrimination and for its failure to comply with international human rights law. However, the resolution that was passed removed the reference to any particular organization and instead added to its policies: "the revocation of charitable status from organizations complicit in international rights violations."

In February 2014, the CRA began receiving numerous identical postcards related to the Organization through its Ministerial Correspondence workflow. The postcards were addressed to the Minister of National Revenue, and were each signed by a different taxpayer. The postcards requested that the CRA "revoke the charitable status of the Jewish National Fund (JNF) of Canada [as the] JNF's activities and policies run contrary to Canadian and international law." Each postcard bears the logos of the following two organizations: Independent Jewish Voices and Stop the JNF Canada. On its [website](#), Independent Jewish Voices states that Stop the JNF Canada and Independent Jewish Voices created the postcards. The CRA received over 1,000 postcards as part of this campaign.

Audit
The Organization was previously audited in 1978, 1983, 1987, and 1997. The previous audits were closed without the CRA informing the Organization of the results of the audits.

In May 2014, the Organization was advised that it was selected for the current audit on May 1, 2014. 16(1)(c)
16(1)(c) This audit was conducted for the Organization's fiscal periods from January 1, 2011, to December 31, 2012.

Administrative Fairness Letters

Following our current review, an Administrative Fairness Letter (AFL 1) was issued to the Organization on May 12, 2016, which addressed a number of areas of non-compliance, such as the Organization's failure to be constituted and operated for exclusively charitable purposes, failure to devote resources to charitable activities carried on by the Organization itself, and failure to maintain adequate books and records.

The Organization submitted a substantive response to AFL 1 (over 100 pages) dated September 12, 2016, which did not alleviate all of the concerns and raised additional ones.

A second AFL (AFL 2) was issued to the Organization on April 19, 2018. The specific areas of non-compliance with the provisions of the Act and/or its Regulations outlined in AFL 2 were as follows:

1) Failure to be constituted for exclusively charitable purposes

In AFL 2, we reiterated our view from AFL 1 that the Organization's stated purposes are broad and vague. In its response dated September 12, 2016, the Organization agreed that its purposes could be more specific and presented new proposed purposes.

The Organization claimed that it relieves poverty by providing employment to indigent workers. Our position is that this activity serves as a means to advance an unstated non-charitable purpose, broadly supporting the work of JNF.

The Organization also asserted that some of its activities advance religion because of its religious underpinnings. It is the CRA's position that the Organization's activities do not advance religion in the charitable sense because religious motivation is not a pertinent consideration, and will not transform a secular activity into one directed toward religious advancement.

2) Failure to devote resources to charitable activities carried on by the Organization itself

a) Lack of direction and control over the use of resources/resourcing non-qualified donees

The Organization has stated that its activities were mainly conducted through an intermediary, JNF. Our audit determined that the information and documentation provided by the Organization did not substantiate this position.

We reviewed the JNF webpage, which characterizes the Organization as a 'donating country' and not a registered charity that directs and controls its own activities, with the JNF acting as its intermediary. While the Organization

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16(1)(c)

21(1)(b)

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Commented [DR8]: This term is used by the Organization in the source records provided. We have referred to this term in the second AFL sent to the Organization, and in Appendix A of the NTR.

has stated that it is independent of JNF, and involved in water, environmental, and development projects in the Middle East, we were unable to distinguish between the activities of the Organization and those of JNF.

The audit also found issues with the Organization's unexecuted general agency agreement template (lack of project specific detailed information), its annual budget, an overall lack of documentation showing ongoing monitoring and supervision of its purported activities, and its use of subcontractors.

b) Conduct of non-charitable activities

Our concerns in this context focused on two issues:

- We identified projects supported by the Organization that were being carried out in the Occupied Territories. We took the position that establishing and maintaining physical and social infrastructure elements and providing assistance to Israeli settlements in the Occupied Territories serves to encourage and enhance the permanency of the infrastructure and settlements, and thus appears to be contrary to Canada's public policy and international law on this issue. The stated Canadian public policy we relied upon was the Global Affairs Canada policy, "[Canadian Policy on Key Issues in the Israeli-Palestinian Conflict](#)". However, following consideration of the Organization's representations, our position regarding the Organization's activities in the Occupied Territories has changed. We agree that the stated Canadian public policy from Global Affairs Canada does not meet the judicial requirement as established by the Federal Court of Appeal (Everywoman's Health Centre Society (1988) v. Minister of National Revenue [1992] 2 F.C. 52 at para. 16), which found that "...for an activity to be considered as 'contrary to public policy,' there must be a definite and somehow officially declared and implemented policy".
- We identified projects where the Organization's resources were used to conduct activities in support of the Israel Defense Forces (IDF). We explained that some activities may not be charitable when carried on in a different country, for example, increasing the effectiveness and efficiency of Canada's armed forces is charitable, but supporting the armed forces of another country is not.

21(1)(b)

3) Failure to Maintain Adequate Books and Records

Our audit determined that the Organization did not maintain adequate books and records to prove that its charitable status should not be revoked. The following concerns were raised in this context:

- We were unable to verify the projects and other details relating to whether the Organization's resources were devoted to its own charitable activities, because some relevant materials were in Hebrew and not "in such form as will enable the Minister to determine whether there are any grounds for the revocation of its registration under this Act."
- The Organization failed to produce source documentation that would allow us to verify resources disbursed by the Organization through its intermediary.
- The agency agreement and supporting documentation did not establish that the Organization's activities were effectively authorized, controlled and monitored by the Organization.
- Supporting documentation was not provided that would allow us to verify that expenses for travel, hotel, meals, gas, telephone, mileage, miscellaneous, and entertainment related to the conduct of charitable activities.

Charity Response

The Organization submitted written responses to our AFLs dated September 12, 2016, May 17, 2018, and October 5, 2018.

In its representations, the Organization:

- Asserted its willingness to amend its purposes and change its activities accordingly, and outlined its limited efforts to show that it is distinct from JNF;
- Outlined steps it has taken to inform its volunteers, staff and intermediaries of their responsibilities as leaders of a Canadian registered charity and made other commitments to exercise required control. However, no documents were provided to show that the Organization adequately directs and controls its purported activities;
- Stated its view that "the pronouncement [the public policy posted on the Global Affairs website referred to above] falls short of a "definite and somehow officially declared and implemented policy" prohibiting Canadian charities from operating in the Territories", and that it "stopped performing activities on IDF military bases in 2016"; and
- Stated it would "commit to better record-keeping practices", but lacked documentation to support this change.

²Everywoman's Health Centre Society (1988) v. Minister of National Revenue, [1992] 2 F.C. 52 at para. 16.

After having considered the Organization's representations, our position regarding its activities in the Occupied Territories has changed. The CRA's letter outlining the grounds for revocation advised that we agree with the Organization that the stated Canadian public policy from Global Affairs Canada does not meet the judicial requirement—and we have withdrawn our previous position, raised in AFL 2, that the Organization's activities in the Occupied Territories are contrary to Canada's public policy.

Furthermore, whether an organization is constituted exclusively for charitable purposes, as explained in both AFLs, cannot be determined solely by reference to its stated purposes, and must take into account the activities carried on by the Organization. Our review of the Organization's current webpages and of its magazine shows that it does not adequately distinguish its activities from those of JNF. In addition, the information and documentation we have been able to review does not alleviate our concern that the Organization's purported activities include supporting the armed forces of another country.

In summary, we reviewed and considered the Organization's response and it is our view that the concerns expressed in the AFLs, except for our concerns relating to the activities in the Occupied Territories, were not alleviated by the Organization's representations.

Factors for Decision

The audit by the CRA found a number of serious areas of non-compliance, including failure to be constituted for exclusively for charitable purposes; failure to devote resources to charitable activities carried on by the Organization itself due to a lack of direction and control over the use of resources/resourcing non-qualified donees and conducting non-charitable activities; and failure to maintain adequate books and records.

In addition, the total revenue and tax-receipted revenue reported for fiscal periods 2015 to 2017 are substantial:

- 2017 Total tax-receipted revenue: \$5,952,189; Total revenue: \$15,385,685 (38%)
- 2016 Total tax-receipted revenue: \$6,870,844; Total revenue: \$29,064,915 (24%)
- 2015 Total tax-receipted revenue: \$5,952,189; Total revenue: \$15,386,685 (39%)

Therefore, it is our position that the Organization should be revoked for cause. While the Organization's representations expressed a commitment to take steps in the future to enhance its compliance with the Act, the information and documentation provided to us does not demonstrate how the Organization will operate in such a manner – the Organization has not demonstrated that its purposes are exclusively charitable, nor has it shown how its activities will be conducted in accordance with the Act and common law. Therefore, it is our position that the Organization should be revoked for cause.

Decision

Taking all the considerations into account, the Organization was issued a 90-day Notice of Intention to Revoke on [date of revocation/sanction]. If the Organization believes that the CRA has misinterpreted the facts or applied the law incorrectly, it can avail itself of its recourse rights by filing an objection with the Appeals Branch within 90 days from the date of the Notice of Intention to Revoke. In most cases, the CRA will allow a charity to exhaust its objection and appeal rights before revoking registration. This means that the revocation would not be published in the Canada Gazette and the CRA would not be able to release any part of any letters with respect to the pending revocation until the Appeals Branch has rendered a decision on the objection. The objection process can take several years to resolve. During this time, the Organization would continue to operate as a registered charity and be permitted to issue official donation receipts.

Program action and next steps

- **Date of publication in the Canada Gazette:** [Date]
- **News Release:** No
- **Media Lines:** Yes
- **Questions and Answers:** No

A Notice of Intention to Revoke was sent to the Organization dated [Date].

As stated in the Notice of Intention to Revoke [note that media spokespersons must repeat any portion of or the entirety of this quote verbatim]:

"The audit by the CRA found that the Organization is not complying with the requirements set out in the Act. In particular, it was found that the Organization failed to be constituted for exclusively charitable purposes, failed to devote resources to charitable activities carried on by the Organization itself, and failed to maintain adequate books and records. For all of these reasons, and for each reason alone, it is the position of the CRA that the Organization no longer meets the requirements for charitable registration and should be revoked in the manner described in subsection 168(1) of the Act."

21(1)(b)
24(1)
24(1)
21(1)(b)

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21(1)(b)

Commented [AC15]: TBD

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Public information

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- A registered charity is prohibited from gifting its resources to non-qualified donees.
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Renseignements publics

- L'ARC a la responsabilité de protéger l'intégrité du régime fiscal et du secteur de la bienfaisance en s'assurant que tous les organismes de bienfaisance enregistrés suivent les règles relatives à l'enregistrement.
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- La Loi de l'impôt sur le revenu permet à un organisme de bienfaisance enregistré de réaliser ses fins de bienfaisance de deux façons seulement : il peut faire des dons à d'autres organismes qui sont des donataires reconnus, ou il peut mener ses propres activités de bienfaisance.
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- Il est interdit à un organisme de bienfaisance enregistré de faire le don de ses ressources à des donataires non reconnus.
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- Si, dans le cadre d'une vérification, l'ARC découvre qu'un organisme de bienfaisance enregistré n'observe pas la loi, elle lui enverra une lettre qui a pour but d'exposer en détail chacune de ses préoccupations; lui expliquera sa position préliminaire sur la question de savoir si l'organisme doit prendre des mesures correctives ou si l'observation justifie l'imposition de sanctions ou la révocation ou l'annulation de son enregistrement; et, lui donnera l'opportunité de présenter des représentations avant que l'ARC prenne une décision définitive.

Prepared by: Shane Byrnes Senior Policy Analyst Charities Directorate LPRAB March 14, 2019	In consultation with: Alexandre Chapados Technical Policy Advisor Charities Directorate LPRAB March 18, 2019	Approved by: Lindsay Bielby Acting Director, CISD Charities Directorate LPRAB March 21, 2019	Approved by: Tony Manconi Director General Charities Directorate LPRAB [Date approved]	Approved by: Geoff Trueman Assistant Commissioner LPRAB [Date approved]
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Case Info Sheet

Taxpayer identification

Name of taxpayer or business: Jewish National Fund of Canada (Keren Kayemeth Le'Israel) Inc. /
Fonds National Juif du Canada (Keren Kayemeth Le'Israel) Inc.

RC161, *Authorization for Parliamentarians*, signed:

Issue or enquiry

Issue

Effective, [\[date of revocation/sanction\]](#) in accordance with the Income Tax Act, the Canada Revenue Agency (CRA) will revoke the registration of Jewish National Fund of Canada (Keren Kayemeth Le'Israel) Inc. / Fonds National Juif du Canada (Keren Kayemeth Le'Israel) Inc. (JNF Canada), based in Montréal, Quebec.

Organizations

JNF Canada was registered as a charitable organization effective January 1, 1967 "to create, provide, enlarge and administer a fund to be made up of voluntary contributions from the Jewish community and others to be used for charitable purposes." Its primary purpose has been to create and administer a fund, made up of contributions from the Jewish community and others, and it reports ongoing operations in Israel.

Keren Kayemeth Le'Israel-Jewish National Fund in Israel (JNF Israel) is an Israeli corporation that is the largest private landowner in the state of Israel.

Media, Public Interest, and Leads History

JNF Canada has garnered significant attention from the media and has been the subject of various letter writing campaigns and complaints from members of the public. Such public complaints usually relate to the JNF Canada's activities and policies, which are perceived to be contrary to Canadian public policy and international law. Some notable examples follow.

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On January 4, 2019, a CBC News [article](#) was published by Evan Dyer. The article states JNF Canada has been the subject of a CRA audit over a complaint that it used charitable donations to build infrastructure for the Israel Defence Forces (IDF), which would not be compliant with Canada's tax rules. The article focuses on infrastructure projects funded by JNF Canada on Israeli army, air and naval bases. The article also questions JNF Canada's transparency as to how much is spent on planting trees, irrigation, or education, and how much is spent on projects for the IDF.

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Also in 2016, there was media attention regarding JNF Canada, as a recommendation for the revocation of its charitable status was one of two foreign policy resolutions put forward at the Green Party of Canada's convention. Initially, the resolution called on the CRA to revoke JNF Canada's charitable status for contravening public policy against discrimination and for its failure to comply with international human rights law. However, the resolution that was passed removed the reference to any particular organization and instead added to its policies: "the revocation of charitable status from organizations complicit in international rights violations."

In February 2014, the CRA began receiving numerous identical postcards related to JNF Canada through its Ministerial Correspondence workflow. The postcards were addressed to the Minister of National Revenue, and were each signed by a different taxpayer. The postcards requested that the CRA "revoke the charitable status of the Jewish National Fund (JNF) of Canada [as the] JNF's activities and policies run contrary to Canadian and international law." Each postcard bears the logos of the following two organizations: Independent Jewish Voices and Stop the JNF Canada. On its [website](#), Independent Jewish Voices states that Stop the JNF Canada and Independent Jewish Voices created the postcards. The CRA received over 1,000 postcards as part of this campaign.

Audit

JNF Canada was previously audited in 1978, 1983, 1987, and 1997. The previous audits were closed without the CRA informing JNF Canada of the results of the audits.

In May 2014, JNF Canada was selected for audit. This audit was conducted for JNF Canada's fiscal periods from January 1, 2011, to December 31, 2012.

Administrative Fairness Letters

An Administrative Fairness Letter (AFL 1) was issued to JNF Canada on May 12, 2016, which addressed a number of areas of non-compliance, such as JNF Canada's failure to be constituted and operated for exclusively charitable purposes, failure to devote resources to charitable activities carried on by JNF Canada itself, and failure to maintain adequate books and records.

JNF Canada submitted a substantive response to AFL 1 (over 100 pages) dated September 12, 2016, which did not alleviate all of the concerns and raised additional ones.

A second AFL (AFL 2) was required to address new information presented by JNF Canada. While a second AFL is not typically issued, the CRA does so in cases where new information is presented by a charity to allow for procedural fairness before proceeding to issue a Notice of Intention to Revoke.

AFL 2 was issued to JNF Canada on April 19, 2018. The specific areas of non-compliance with the provisions of the Act and/or its Regulations outlined in AFL 2 were as follows:

1) Failure to be constituted for exclusively charitable purposes

In AFL 2, we reiterated our view from AFL 1 that JNF Canada's stated purposes are broad and vague. In its response dated September 12, 2016, JNF Canada agreed that its purposes could be more specific and presented new proposed purposes.

JNF Canada claimed that it relieves poverty by providing employment to indigent workers. Our position is that this activity serves as a means to advance an unstated non-charitable purpose, broadly supporting the work of JNF.

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2) Failure to devote resources to charitable activities carried on by JNF Canada itself

a) Lack of direction and control over the use of resources/resourcing non-qualified donees

JNF Canada has stated that its activities were mainly conducted through an intermediary, JNF Israel. Our audit determined that the information and documentation provided by JNF Canada did not substantiate this position.



We reviewed the JNF Israel webpage, which characterizes JNF Canada as a 'donating country' and not a registered charity that directs and controls its own activities, with the JNF Israel acting as its intermediary. While JNF Canada has stated that it is independent of JNF Israel, and involved in water, environmental, and development projects in the Middle East, we were unable to distinguish between the activities of JNF Canada and those of JNF Israel.

The audit also found issues with JNF Canada's unexecuted general agency agreement template (lack of project specific detailed information), its annual budget, an overall lack of documentation showing ongoing monitoring and supervision of its purported activities, and its use of subcontractors.

b) Conduct of non-charitable activities

Our concerns in this context focused on two issues:

- We identified projects supported by JNF Canada that were being carried out during the audit period in the territories occupied in 1967 (the Golan Heights, the West Bank, and East Jerusalem). We took the position that establishing and maintaining physical and social infrastructure elements and providing assistance to Israeli settlements in the territories occupied in 1967 serves to encourage and enhance the permanency of the infrastructure and settlements, and thus appears to be contrary to Canada's public policy and international law on this issue. The stated Canadian public policy we relied upon was the Global Affairs Canada policy, "Canadian Policy on Key Issues in the Israeli-Palestinian Conflict". However, our preliminary position regarding JNF Canada's activities in the territories occupied in 1967 has changed. It is our view that the stated Canadian public policy from Global Affairs Canada does not meet the judicial requirement as established by the Federal Court of Appeal (*Everywoman's Health Centre Society (1988) v. Minister of National Revenue*, [1992] 2 F.C. 52 at para. 16), which found that "...for an activity to be considered as 'contrary to public policy,' there must be a definite and somehow officially declared and implemented policy". As a result, the nature of the Organization's activities in the territories occupied in 1967 were not considered in our decision to propose revocation of the its charitable status.
- We identified projects where JNF Canada's resources were used to conduct activities in support of the Israel Defense Forces (IDF). We explained that some activities may not be charitable when carried on in a different country, for example, increasing the effectiveness and efficiency of Canada's armed forces is charitable, but supporting the armed forces of another country is not.

3) Failure to Maintain Adequate Books and Records

Our audit determined that JNF Canada did not maintain adequate books and records to prove that its charitable status should not be revoked. The following concerns were raised in this context:

- We were unable to verify the projects and other details relating to whether JNF Canada's resources were devoted to its own charitable activities, because some relevant materials were in Hebrew and not "in such form as will enable the Minister to determine whether there are any grounds for the revocation of its registration under this Act."
- JNF Canada failed to produce source documentation that would allow us to verify resources disbursed by JNF Canada through its intermediary.
- The agency agreement and supporting documentation did not establish that JNF Canada's activities were effectively authorized, controlled and monitored by JNF Canada.
- Supporting documentation was not provided that would allow us to verify that expenses for travel, hotel, meals, gas, telephone, mileage, miscellaneous, and entertainment related to the conduct of charitable activities.

Charity Response

JNF Canada submitted written responses dated September 12, 2016, May 17, 2018, and October 5, 2018, to our AFLs.

In its representations, JNF Canada:

- Asserted its willingness to amend its purposes and change its activities accordingly, and outlined its limited efforts to show that it is distinct from JNF Israel;
- Outlined steps it has taken to inform its volunteers, staff and intermediaries of their responsibilities as leaders of a Canadian registered charity and made other commitments to exercise required control. However, no documents were provided to show that JNF Canada adequately directs and controls its purported activities;
- Stated its view that "the pronouncement [the public policy posted on the Global Affairs website referred to above] falls short of a "definite and somehow officially declared and implemented policy" prohibiting Canadian charities from operating in the Territories", and that it "stopped performing activities on IDF military bases in 2016"; and
- Stated it would "commit to better record-keeping practices", but lacked documentation to support this change.



Our position regarding its activities in the territories occupied in 1967 has changed. The CRA's letter advised that the nature of the Organization's activities in the territories occupied in 1967 were not considered in our decision to propose revocation of its charitable status.

Furthermore, whether an organization is constituted exclusively for charitable purposes, as explained in both AFLs, cannot be determined solely by reference to its stated purposes, and must take into account the activities carried on by JNF Canada. Our review of JNF Canada's current webpages and of its magazine shows that it does not adequately distinguish its activities from those of JNF Israel. In addition, the information and documentation we have been able to review does not alleviate our concern that JNF Canada's purported activities include supporting the armed forces of another country.

In summary, we reviewed and considered JNF Canada's response and it is our view that the concerns expressed in the AFLs, except for our concerns relating to the activities in the territories occupied in 1967, were not alleviated by JNF Canada's representations.

Factors for Decision

The audit by the CRA found a number of serious areas of non-compliance, including not being constituted and operated for exclusively for charitable purposes; failure to devote resources to charitable activities carried on by JNF Canada itself due to a lack of direction and control over the use of resources/resourcing non-qualified donees and conducting non-charitable activities; and failure to maintain adequate books and records.

In addition, the total revenue and tax-receipted revenue reported for fiscal periods 2015 to 2017 are substantial:

2017 Total tax-receipted revenue: \$5,952,189; Total revenue: \$15,385,685 (38%)

2016 Total tax-receipted revenue: \$6,870,844; Total revenue: \$29,064,915 (24%)

2015 Total tax-receipted revenue: \$5,952,189; Total revenue: \$15,386,685 (39%)

While JNF Canada's representations expressed a commitment to take steps in the future to enhance its compliance with the Act, the information and documentation provided to us does not demonstrate how JNF Canada will operate in such a manner—JNF Canada has not demonstrated that its purposes are exclusively charitable, nor has it shown how its activities will be conducted in accordance with the Act and common law. Therefore, it is our position that JNF Canada should be revoked for cause.

Decision

Notwithstanding a message that was communicated in the Administrative Fairness Letter, the Notice of Intention to Revoke advises that "the nature of the Organization's activities in the territories occupied in 1967 were not considered in our decision to propose revocation of its charitable status."

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Taking all the considerations into account, JNF Canada was issued a 90-day Notice of Intention to Revoke on [date of revocation/sanction]. If JNF Canada believes that the CRA has misinterpreted the facts or applied the law incorrectly, it can avail itself of its recourse rights by filing an objection with the Appeals Branch within 90 days from the date of the Notice of Intention to Revoke. In most cases, the CRA will allow a charity to exhaust its objection and appeal rights before revoking registration. This means that the revocation would not be published in the Canada Gazette and the CRA would not be able to release any part of any letters with respect to the pending revocation until the Appeals Branch has rendered a decision on the objection. The objection process can take several years to resolve. During this time, JNF Canada would continue to operate as a registered charity and be permitted to issue official donation receipts.

Program action and next steps

- **Date of publication in the Canada Gazette:** [Date]
- **News Release:** No
- **Media Lines:** Yes
- **Questions and Answers:** No

A *Notice of Intention to Revoke* was sent to JNF Canada dated [Date].

As stated in the *Notice of Intention to Revoke* [note that media spokespersons must repeat any portion of or the entirety of this quote verbatim]:

"The audit by the CRA found that the Organization is not complying with the requirements set out in the Act. In particular, it was found that the Organization was not constituted and operated for exclusively charitable purposes, failed to devote resources to charitable activities carried on by the Organization itself, and failed to maintain adequate books and records. For all of these reasons, and for each reason alone, it is the position of the CRA that



the Organization no longer meets the requirements for charitable registration and should be revoked in the manner described in subsection 168(1) of the Act”

Public information

- The CRA has a responsibility to protect the integrity of the tax system and the charitable sector by ensuring that all registered charities follow the rules associated with registration.
- Registered charities must be established for exclusively charitable purposes as defined by law.
- A registered charity must devote substantially all of its resources to activities in support of the charitable purposes for which it was registered.
- The Income Tax Act allows a registered charity to carry out its charitable purposes in only two ways: it can make gifts to other organizations that are qualified donees, or it can carry on its own charitable activities.
- When carrying out its own activities, a registered charity must ensure it maintains direction and control over the use of its resources.
- A registered charity is prohibited from gifting its resources to non-qualified donees.
- Registered charities must keep adequate books and records to allow the CRA to verify donations made to the charity, and to ensure the proper use of charitable resources.
- When an audit uncovers that a registered charity is not following the Act, the CRA will send the charity a letter that outlines in detail each of the CRA's concerns; provide its preliminary view of whether the charity needs to take corrective actions or whether the non-compliance warrants imposing sanctions or revoking or annulling the charity's registration; and, provide the charity the opportunity to make representations before the CRA comes to a final decision.

Renseignements publics

- L'ARC a la responsabilité de protéger l'intégrité du régime fiscal et du secteur de la bienfaisance en s'assurant que tous les organismes de bienfaisance enregistrés suivent les règles relatives à l'enregistrement.
- Les organismes de bienfaisance enregistrés doivent être établis exclusivement à des fins de bienfaisance, lesquelles sont définies en droit.
- Un organisme de bienfaisance enregistré doit consacrer la plupart de ses ressources à des activités qui appuient les fins de bienfaisance pour lesquelles il a été enregistré.
- La Loi de l'impôt sur le revenu permet à un organisme de bienfaisance enregistré de réaliser ses fins de bienfaisance de deux façons seulement : il peut faire des dons à d'autres organismes qui sont des donataires reconnus, ou il peut mener ses propres activités de bienfaisance.
- Lorsqu'il exerce ses propres activités, un organisme de bienfaisance enregistré doit conserver la direction et le contrôle sur l'utilisation de ses ressources.
- Il est interdit à un organisme de bienfaisance enregistré de faire le don de ses ressources à des donataires non reconnus.
- Les organismes de bienfaisance enregistrés doivent tenir des livres et registres comptables suffisants afin de permettre à l'ARC de vérifier les dons versés à l'organisme de bienfaisance et d'assurer l'utilisation appropriée des ressources de bienfaisance.
- Si, dans le cadre d'une vérification, l'ARC découvre qu'un organisme de bienfaisance enregistré n'observe pas la loi, elle lui enverra une lettre qui a pour but d'exposer en détail chacune de ses préoccupations; lui expliquera sa position préliminaire sur la question de savoir si l'organisme doit prendre des mesures correctives ou si l'inobservation justifie l'imposition de sanctions ou la révocation ou l'annulation de son enregistrement; et, lui donnera l'opportunité de présenter des représentations avant que l'ARC prenne une décision définitive.

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