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Private and Confidential
Chief of Appeals
Canada Revenue Agency
Appeals Intake Centre
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Our ref Letter to Chief of
Appeals

May 27, 2022

Dear Sir or Madam:

Notice of Objection

Cornerstone Christian School Inc. – Case number 14639441

We are writing on behalf of the above-noted corporation (the “Taxpayer” or “Cornerstone”), to file a notice of objection to the Notice of Determination dated March 1, 2022 (the “Notice”) in respect of the Taxpayer’s Canada Emergency Wage Subsidy (“CEWS”) for CEWS periods 1 to 21 (the “Relevant Periods”). As required by paragraph 165(1) of the Act, the Taxpayer’s Notice of Objection (the “NOO”) to the Notice of Assessment are attached hereto and include:

1. the T400A Notice of Objection for the Relevant Periods; and
2. the Statement of Facts and Reasons forming part of the NOO.

As appears from the facts outlined in the NOO, the Taxpayer should be considered a private school on the basis of the following factors:

- Aside from ensuring the provincial curriculum policy is met, Cornerstone’s agreement with the Board of Education permits Cornerstone to have significant authority to make operational decisions.
- Cornerstone’s existence was created by a group of home school parents with an interest to ensure children were taught Christian biblical principles and was not created out of a legislation to account for a public need.
- The provincial government provides some funding, but it requires Cornerstone to generate its own revenues in to maintain operation which differs from public schools funding.



Chief of Appeals
Notice of Objection
May 27, 2022

- Registered Independent School criteria specifically state that it cannot be owned by a public authority or public school system.
- Cornerstone's articles of incorporation and bylaws specifically state on dissolution the assets must pass to another Christian Education Registered Charity.
- Cornerstone is registered under The Registered Independent Schools Regulations and maintain status as an independent school under provincial legislation.

Discussion

Paragraph 125.7(1) defines an eligible entity. This definition specifically excludes a public institution and permits a prescribed entity as defined in regulations 8901.1. A public institution is further defined in this subsection and among other factors include a school or a school board. However, regulation 8901.1(f) provide that a prescribed entity includes a person or partnership that operates a private school or private college.

There is little CRA guidance on distinguishing between a school vs a private school. However, the CRA has provided some guidance on public vs private bodies in bulletin 2020-0849221E5 with emphasis on the following line:

"a public body must have a duty to the public, must have a high degree of governmental control, and any profit made must be in the public interest and not in the private interest. It is generally a body that acquires both its existence and its authority by virtue of a statute enacted by a legislative body, and whose functions and transactions benefit and affect the entire community of persons to whom its authority extends"

Application

- 1 High degree of government control – Cornerstone must operate in agreement with the board of education and conforms to the provincial curriculum policy. However, article 4.01(d) of the agreement requires that the associate school is required to raise sufficient revenues to meet its financial responsibilities. These include the personnel costs for teaching, non-teaching staff, any personnel costs and equipment and supply costs. It is important to note that the teaching costs are not paid directly by Cornerstone. The associate school will receive a government grant based on student attendance levels which is flowed to cover the teaching costs pursuant to Article 4.02 of the agreement. This is important as the funds required to cover all other operational expenditures are required to be raised by Cornerstone.

An additional important point is the professional staff are not employees of Cornerstone and were not included in the CEWS claims as submitted.



Professionals are employed by the Board of Education and this entity invoices Cornerstone for the cost of the staff which does not form remuneration on the book and records of Cornerstone. The professionals have a duty to deliver the curriculum, Cornerstone has a duty to provide premises and an environment for that function to be carried out. This differs greatly from CRA's understanding of the management of the entity as evidenced by the audit team's findings in Appendix B of the February 3, 2022, discussion paper issued by the field team.

Associate schools must operate in accordance with the agreement but are specifically exempt from requiring a board to appoint a director for the associate school and from certain inspections from the Minister which differs from other independent schools. While it is a highly regulated sector that receives some government funding, the onus is on the associate school to generate sufficient revenues to cover all other operating costs. This differs from schools in the public school system as the school would not be required to generate their own revenue in order to operate. Furthermore, the Saskatchewan government provides a definition of Registered Independent schools that states that it must be owned by a person or organization other than a public authority or the government.

- 2 Profit must be in public interest and not private- Cornerstone is a registered charity and any profit it did receive would go back into the associate school itself. One of the defining issues with a registered charity or a not-for-profit entity is that profits can not be returned to the members, profits must be used to carry out charitable works or be turned over to a Qualified Donee or ultimately returned to the Charities Directorate. The articles of incorporation as well as the bylaws of Cornerstone indicate that on dissolution the assets are to be paid to another Christian education registered charity.
- 3 Functions benefit the entire community of person where the authority extends – There is no authority that mandates Cornerstone's existence by virtue of a statute enacted by a legislative body. The associate school acquired its existence by way of its own private desire to provide educational services that support the Christian religious beliefs. The education system is a highly regulated environment and in order to be operational, they must follow specific direction as specified in the Education Act. However, Cornerstone's functions and transactions would not benefit the entire community covered by this authority only the families attending Cornerstone Christian School.

In summary, Cornerstone should be considered a private school which is an eligible entity for the purposes of CEWS on the basis of the following:

- Aside from ensuring the provincial curriculum policy is met, Cornerstone's agreement with the Board of Education permits the Cornerstone to have significant authority to make operational decisions.



Chief of Appeals
Notice of Objection
May 27, 2022

- Its existence was created by a group of home school parents with an interest to ensure children were taught Christian Biblical principals and was not create out of a legislation to account for a public need.
- The government will provide funding to cover teacher salaries, but it requires Cornerstone to generate its own revenues in to maintain operation which differs from public schools funding.
- Professional staff are not employed by Cornerstone, Cornerstone does not issue T4s for them or Records of Employment.
- Registered Independent School criteria specifically state that it cannot be owned by a public authority or public school system.

For these reasons we ask that you accept the Taxpayer's application and reconsider the determination and classification of Cornerstone Christian School Inc. and find them as a prescribed entity listed under regulation 8901.1(f).

Yours very truly

A handwritten signature in black ink, appearing to read 'Derek D. Dougherty', with a long horizontal flourish extending to the right.

Derek D. Dougherty, CPA, CGA
Senior Manager, Tax

Encl.
Cc: Cornerstone Christian School Inc.