

## Christian groups to pay \$1.5 million to settle tax plan lawsuit

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Two local Christian charities will pay \$1.5 million to parents facing huge bills for back taxes and penalties after investing in tax programs backed by the groups.

Christian Economic Assistance Foundation and Ontario Alliance of Christian School Societies agreed to the payment early in December to settle a class action .

The charities did not admit any wrongdoing in agreeing to the settlement. Neither group could be reached for comment. The OACSS office is closed until Jan. 4 while the CEAF telephone number is no longer in service and its website has been taken down.

At the heart of the case, filed by the Hamilton law firm of Scarfone Hawkins, is an initiative called the School Support Program. In its statement of claim the firm said under the system, parents split the cost of sending their children to a Christian school between the school and the CEAF. In turn, CEAF issued a tax receipt for the amount "donated" and gave the child's school a grant for the same amount.

Between 2003 and 2011 tax receipts for almost \$74.3 million were issued under the program to 5,000 participants. Parents were told the program was designed "to offset the impact of unfair government policies" that denied public funding to Christian schools. As many as 50 Ontario parochial schools participated in the initiative.

"Generally, the SSP operates so as to characterize what are truly and properly tuition payments for students to attend Ontario Christian schools, as grants in order to generate charitable donation tax receipts and concomitant tax credits," the statement of claim alleged.

Under that program Terry Emms, the Brampton resident who served as the example in the class action suit, paid \$38,000 to send his son to a Christian school in Brampton and was given a tax receipt for more than \$18,800.

In 2012, however, the Canada Revenue Agency rejected those deductions, reducing Emms' deductions to \$2,248 and demanded payment of back amounts plus penalties and interest.

Similar reassessments for the 2010 to 2013 tax years were issued against all participants in the fund.

The CRA revoked CEAF's charitable status in July 2013.

"CRA determined that amounts paid to CEAF were not valid gifts because those amounts were directed by a donor to be paid to a non-qualified donee," the statement of claim alleges. "The payments were not valid gifts as they were not provided to an eligible charity, but rather to a specified recipient.

"CRA is of the view that the intention of the SSP is merely a tax scheme to artificially maximize charitable donation tax receipts for private school tuition fees by improperly characterizing tuition payments as grants."

In a January 2014 interview with the news service Christian Week , OACS executive director Julius de Jager said supporters were shocked by the tax agency's sudden action.

"The retroactive approach of the CRA to declare donations invalid certainly hit a chord of discontent among the affected donors," he said. "We have heard the whole range of emotions, but many decided to pay the new tax bill and move on."

At the same time CEAF said in a note on its website it "regrets the financial challenges now faced by a number of families" because of its program.

When Emms engaged Scarfone Hawkins for the suit, the law firm agreed to a 30 per cent contingency fee for the case after expenses and disbursements. Emms also received a \$5,000 honorarium under the settlement for the time he devoted to the case. The law firm also gets \$100,000 to administer the distribution of the settlement.

After all that is taken off the top, the balance of the settlement will be pro rated among participants to a maximum of 46.41 per cent of their total donation to the plan. The total amount to be distributed will depend on how many affected parents submit claims.



*In 2011, Trinity Western University in British Columbia had a similar program shut down by the Canada Revenue Agency.*