



THE INVESTMENT FUNDS INSTITUTE OF CANADA
L'INSTITUT DES FONDS D'INVESTISSEMENT DU CANADA

BY EMAIL

September 8, 2011

Ms. Janet Schermann
Non-Resident Policy Advisor
Canada Revenue Agency
Medium Business Audit Division
112 Kent Street
Ottawa, Ontario K1A 0L5
Tel: 613-960-1906
Email: Janet.Schermann@cra-arc.gc.ca

Dear Ms. Schermann:

Re: IFIC Request to CRA for an Extension to Implement the Protocol for NR forms, 301, 302 and 303

The Investment Funds Institute of Canada (IFIC) is writing to ask the Canada Revenue Agency for an extension until December 31, 2013 in connection with implementing the forms and protocols related to NR301, NR302 and NR303 reporting forms released, together with certain other related material, by the Canada Revenue Agency ("CRA") on April 19, 2011.

IFIC members include mutual fund management companies, fund distributors, and organizations that provide services to the industry. The mutual fund industry currently manages \$791 billion of client assets – over 30% of Canadians' financial wealth. It provides services to 12 million investors nationwide through 300,000 advisors and other fund company and distributor staff.

We understand that the forms reflect, in part, CRA's revised administrative policy concerning the applicable rates of withholding tax under Part XIII of the Income Tax Act (the "Act") in respect of payments to persons resident in a country with which Canada has a tax treaty. While we recognize that the forms are not prescribed, and therefore not mandatory, they do reflect certain changes in CRA's policy concerning the information necessary to support a payer's decision to withhold and the rate of such withholding, as applicable. That is, even if a particular form is not utilized, the Canadian resident payer must still obtain the type of information set out in the forms.

From the perspective of the payer, an improper determination on the issue of whether to withhold or the rate of withholding can result in the imposition of penalties and interest as well as liability for any amount not properly withheld. While it is recognized that the forms do not introduce a formal due diligence defence under the Act, it is evident that use of the forms, as a way of satisfying the CRA's requirement to gather "recent and sufficient" information, will be a consideration in any subsequent application for a waiver of penalties and/or interest imposed under the Act in these circumstances.

Ms. Schermann

Re: IFIC Request to CRA for an Extension to Implement the Protocol for NR forms, 301, 302 and 303

September 8, 2011

Non-resident recipients of certain types of payments made by a resident of Canada are to furnish the payer with the applicable form within the provided transitional period ending December 31, 2011. Moreover, even if a particular member organization decides to not formally adopt use of the forms and instead rely on other means to satisfy the “the recent and sufficient” information requirement, this too must be completed by December 31, 2011. However, it will take time to implement systems and modify existing operational approaches to gather the required data. This is true in the case of both existing clients as well as for new clients. In the former case, existing information and data will have to be reviewed to ensure its timeliness, sufficiency and general compliance. In many instances this data will be scattered around numerous locations throughout the country. In the case of new clients, it will take a member organization time to modify and test existing account opening procedures to ensure they are capable of capturing and retrieving the required information in an accurate and efficient manner.

It usually takes approximately 18 months to complete the process of making significant system development changes and then doing the necessary regression testing to ensure the integrity of the tax amounts that are being withheld and remitted to CRA. The changes that will need to be made to implement a blended rate that reflects the residency of non-resident account holders in partnerships and hybrid entities is substantial – as will be the process to review the current documentation to ensure that the new requirements are satisfied.

It also is important to note that all of this needs to be done while the industry is working on implementing the extensive system enhancements and documentation process that the U.S. Foreign Account Tax Compliance Act (FATCA) will require.

There will be significant overlap between the implementation of the CRA non-resident withholding requirements and FATCA, in that client documentation will need to be reviewed to determine/confirm residency status and that system changes will be required to allow our operating systems to withhold based on a logic that is different than the traditional treaty rate and payment type model.

An informal inquiry and assessment by our member organizations indicates that the systems programming and documentation review cannot be completed by the end of the 2011 calendar year.

Our members have recommended, and IFIC is requesting, that an implementation of the forms and associated revised administrative policy be delayed so as to provide a transitional period ending December 31, 2013.

This is necessary to allow the industry to develop, coordinate and implement the documentation review and systems changes that both the Canadian and American governments have mandated. The extension will allow the industry to work on both projects in tandem which will streamline the process for both clients and financial institutions and make it much more cost efficient to implement.

Ms. Schermann

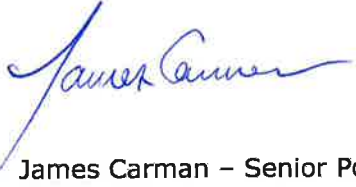
Re: IFIC Request to CRA for an Extension to Implement the Protocol for NR forms, 301, 302 and 303

September 8, 2011

IFIC also recommends that CRA remove the expiry date on these forms. Filling out a new form is required if there is any change to the client's residency status so the expiry date is unnecessary. Also, since the form is not mandatory it would be unfair to only ask clients who used the form to fill out a new one if their residency had not changed.

We would be pleased to provide further information or answer any questions you may have. Please contact me directly at 416 309-2323.

Yours Sincerely,



James Carman – Senior Policy Advisor, Taxation

Tel: 416-309-2323

Email: jcarman@ific.ca