TAX EXECUTIVES INSTITUTE, INC.

CANADA REVENUE AGENCY

COMMODITY TAX LIAISON MEETING

QUESTIONS AND ANSWERS

December 6, 2022

The following answers to the questions posed by the TEI represent our general views with respect to the subject matter and do not replace the law found in the Excise Tax Act (the ETA) and its regulations. These general comments are provided for your reference and do not bind the CRA with respect to a particular situation. Since our comments may not completely address a TEI member's particular situation, the member may wish to refer to the ETA or appropriate regulation, or contact any CRA GST/HST Rulings Centre for additional information.

A ruling should be requested for certainty in respect of any particular GST/HST matter; reference may be made to GST/HST Memorandum 1.4, Excise and GST/HST Rulings and Interpretations Service. To make a technical enquiry on the GST/HST by telephone, call 1-800-959-8287.

TEI members located in the province of Quebec who wish to make a technical enquiry or request a ruling related to the GST/HST, can contact Revenu Québec by calling 1-800-567-4692.

Exception: Since January 1, 2013, the CRA has been administering the GST/HST and the QST for listed financial institutions that are selected listed financial institutions (SLFIs) for GST/HST and/or QST purposes whether or not they are located in Quebec. If you wish to make a request for a ruling related to the GST/HST or QST and these types of listed financial institutions in respect of any particular matter; reference may be made to GST/HST Memorandum 1.4, Excise and GST/HST Rulings and Interpretations Service. To make a technical enquiry related to these types of listed financial institutions by telephone, call 1-855-666-5166.

Question I: Greenhouse Gas Pollution Pricing Act ("GGPPA") Section 36, Exemption Certificates

Can the CRA clarify where section 36 requires the exemption certificate to be provided "prior to or at time of delivery?" The CRA has taken a position that section 36 of the GGPPA is not satisfied unless the exemption certificate was provided prior to or at the time of the fuel delivery, but this requirement does not appear in section 36.[1] The provision merely requires the certificate to be provided "in respect of the delivery" but does not stipulate at a time prior to delivery.

Please confirm that a customer's certificate issued in respect of deliveries made by the supplier to that customer support the exemption of the federal fuel charge ("FFC" under subsection 17(2) of the GGPPA.

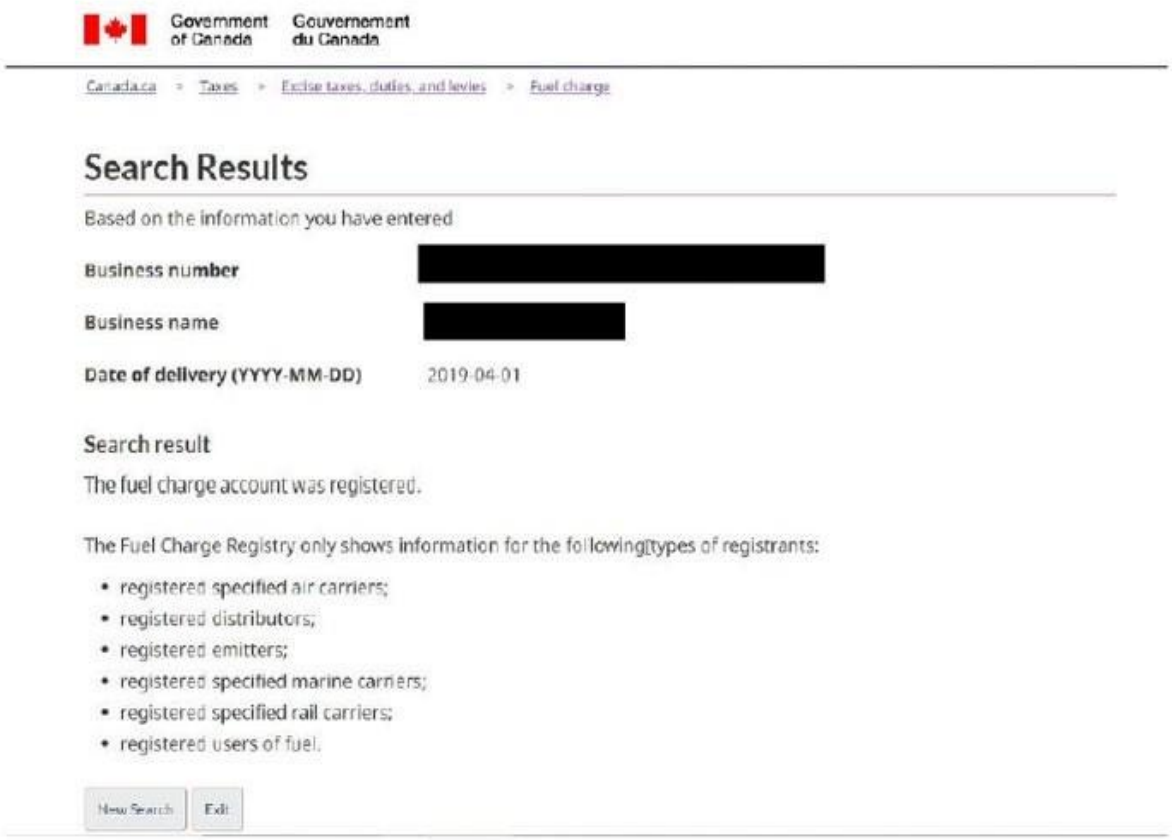
In Figure 1 below, the CRA's Online Fuel Registry shows that this particular vendor was registered on April 1, 2019. However, the date on the exemption certificate issued by the vendor

is after April 1, 2019. When this vendor was audited, however, the CRA assessed the vendor for FFC on purchases the vendor made between April 1, 2019, to December 15, 2019.

Can the CRA please provide comments whether this was the intent of the CRA audit given that the vendor was registered as of April 1, 2019?

[1] The relevant language of section 36 it reproduced in the Appendix at the end of this document.

Figure 1



Government of Canada / Gouvernement du Canada

Canada.ca > Taxes > Excise taxes, duties, and levies > Fuel charge

Search Results

Based on the information you have entered

Business number [redacted]

Business name [redacted]

Date of delivery (YYYY-MM-DD) 2019-04-01

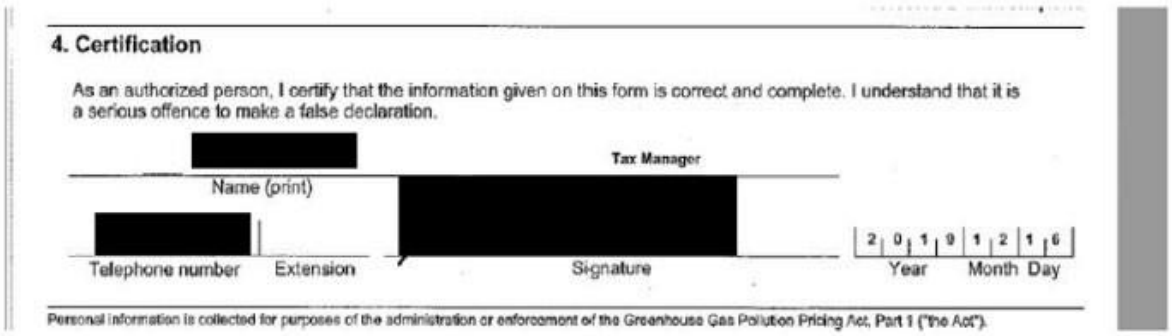
Search result

The fuel charge account was registered.

The Fuel Charge Registry only shows information for the following types of registrants:

- registered specified air carriers;
- registered distributors;
- registered emitters;
- registered specified marine carriers;
- registered specified rail carriers;
- registered users of fuel.

New Search | Exit



4. Certification

As an authorized person, I certify that the information given on this form is correct and complete. I understand that it is a serious offence to make a false declaration.

[redacted] Name (print)

Tax Manager

[redacted] Telephone number | Extension

[redacted] Signature

2 0 1 9 | 1 2 | 1 6 Year | Month | Day

Personal information is collected for purposes of the administration or enforcement of the Greenhouse Gas Pollution Pricing Act, Part 1 ("the Act").

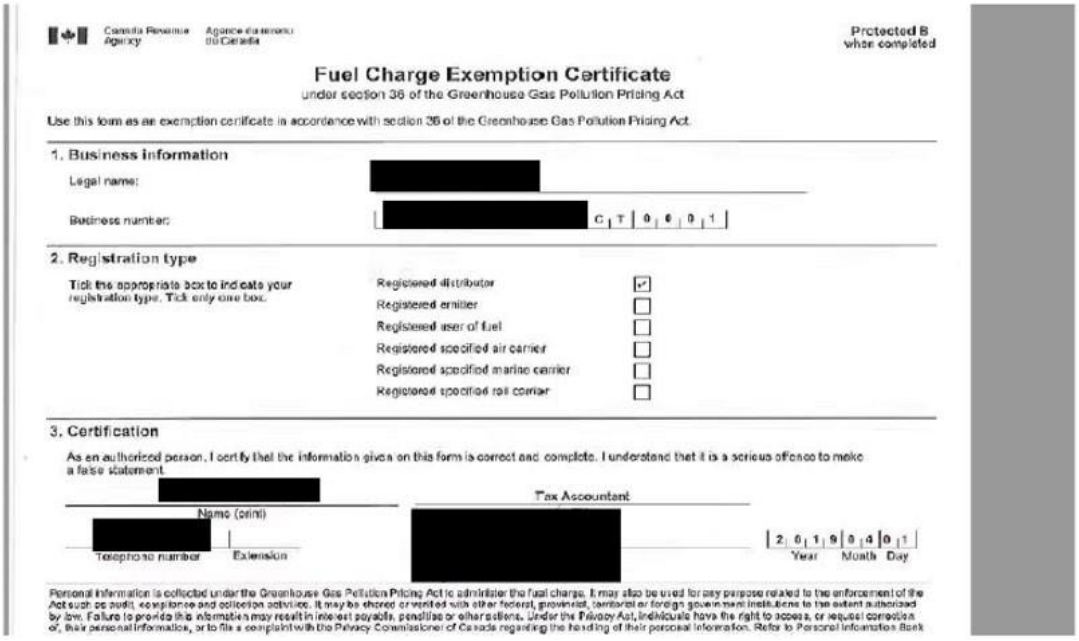
Paragraph 36(1)(vi) requires exemption certificates to list the types of fuel a registered distributor is registered for (Figures 2 and 3 below). However, the early versions of exemption certificates dating back to April 2019 did not provide a list of fuel the registered distributor is registered for. The CRA's Online Fuel Registry also does not provide a list of fuel a for which a particular registered distributor is registered.

In one case, a TEI member was provided a new exemption certificate (by a registered distributor) with the type of fuel checked but the member did not register that fuel type until later. The TEI member accepted the exemption certificate in good faith after checking the CRA's

Online Fuel Registry. During the audit, however, the CRA stated that the registration for that fuel type was made after delivery of the fuel and thus issued an assessment.

Can the CRA please provide comments regarding the purpose of the CRAs Online Fuel Registry when it does not provide the type of fuel information under section 36(1)(iv)?

Figure 2 – Old Exemption Certificate



Canada Revenue Agency / Agence du revenu du Canada

Protected B when completed

Fuel Charge Exemption Certificate

under section 36 of the Greenhouse Gas Pollution Pricing Act

Use this form as an exemption certificate in accordance with section 36 of the Greenhouse Gas Pollution Pricing Act.

1. Business information

Legal name: [redacted]

Business number: [redacted] C T 0 0 0 1

2. Registration type

Tick the appropriate box to indicate your registration type. Tick only one box.

- Registered distributor ☑
- Registered emitter ☐
- Registered user of fuel ☐
- Registered specified air carrier ☐
- Registered specified marine carrier ☐
- Registered specified rail carrier ☐

3. Certification

As an authorized person, I certify that the information given on this form is correct and complete. I understand that it is a serious offence to make a false statement.

[redacted] Tax Accountant

Name (print)

[redacted] [redacted]

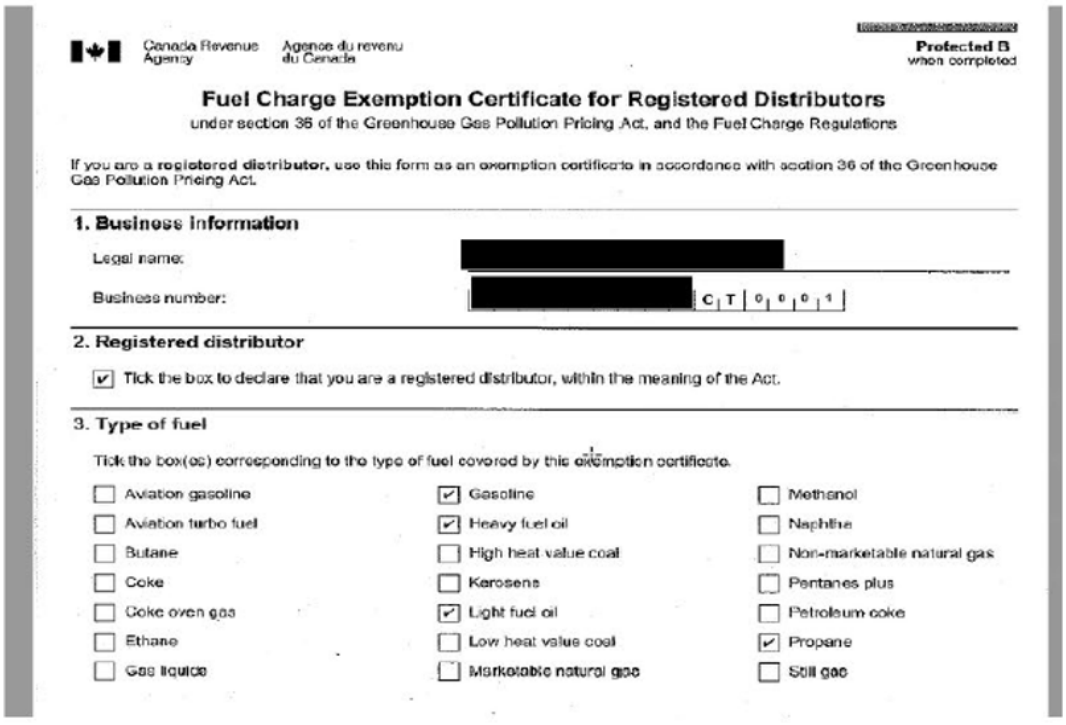
Telephone number Extension

2 0 1 9 0 4 0 1

Year Month Day

Personal information is collected under the Greenhouse Gas Pollution Pricing Act to administer the fuel charge. It may also be used for any purpose related to the enforcement of the Act such as audit, compliance and collection activities. It may be shared or verified with other federal, provincial, territorial or foreign government institutions to the extent authorized by law. Failure to provide this information may result in interest payable, penalties or other actions. Under the Privacy Act, individuals have the right to access, or request correction of, their personal information, or to file a complaint with the Privacy Commissioner of Canada regarding the handling of their personal information. Refer to Personal Information Bank

Figure 3 – New Exemption Certificate



Canada Revenue Agency / Agence du revenu du Canada

Protected B when completed

Fuel Charge Exemption Certificate for Registered Distributors

under section 36 of the Greenhouse Gas Pollution Pricing Act, and the Fuel Charge Regulations

If you are a **registered distributor**, use this form as an exemption certificate in accordance with section 36 of the Greenhouse Gas Pollution Pricing Act.

1. Business information

Legal name: [redacted]

Business number: [redacted] C T 0 0 0 1

2. Registered distributor

☑ Tick the box to declare that you are a registered distributor, within the meaning of the Act.

3. Type of fuel

Tick the box(es) corresponding to the type of fuel covered by this exemption certificate.

☐ Aviation gasoline	☑ Gasoline	☐ Methanol
☐ Aviation turbo fuel	☑ Heavy fuel oil	☐ Naphtha
☐ Butane	☐ High heat value coal	☐ Non-marketable natural gas
☐ Coke	☐ Kerosene	☐ Pentanes plus
☐ Coke oven gas	☑ Light fuel oil	☐ Petroleum coke
☐ Ethane	☐ Low heat value coal	☑ Propane
☐ Gas liquids	☐ Marketable natural gas	☐ Still gas

Answer I:
Following an audit, you would like the CRA to clarify when an exemption certificate under section 36 of the *Greenhouse Gas Pollution Pricing Act* (the Act) is to be provided. While we cannot comment on specific cases, we can provide general comments on our position.
Under subsection 17(2), two conditions must be fulfilled for the charge to not be payable:

- first, a registered distributor delivers fuel in a listed province to another person that is one of the persons mentioned in subparagraphs (i) through (iv), such as a registered distributor; and
- second, an exemption certificate applies in respect of the delivery, in accordance with section 36.

The first condition is a question of fact. The second condition is that an exemption certificate has been provided in accordance with section 36.
Paragraph 36(1)(c) states that:

> "the person provides, in a manner satisfactory to the Minister, the certificate in respect of the delivery to the other person;"

We generally apply 2 conditions in determining a manner that is satisfactory to the Minister:

- an exemption certificate must be provided by a person to another person, in respect of the delivery, either as a hardcopy or a commonly accepted form of electronic format, such as a PDF; and
- the exemption certificate must be provided on or before the date fuel is delivered to the person in a listed province.

The onus is on the registered distributor whether an exemption from the fuel charge is appropriate for their client, and that exemption is supported with an exemption certificate.
You have also raised a question on the purpose of the CRA's Online Fuel Registry. The fuel charge registry is a tool for registered distributors to confirm the registration status of their client and whether they would be allowed the use of an exemption certificate. The registry does not confirm that an exemption certificate is provided in a manner satisfactory to the Minister as described above.
While the registry may confirm that a person is registered as of a certain date, the Act does not provide the authority to publish the types of fuel for which a person is registered on the registry. The CRA has however brought changes to the exemption certificate to allow the identification of the fuel types on the form. This was to provide additional certainty for the distributor on the types of fuel for which the client may be registered.

Question II: Internal Deductions of the Federal Fuel Charge (FFC)

Section 48 of the GGPPA allows for rebates resulting from prescribed events while section 49 of the GGPPA provides for a rebate if an amount has been paid in excess of the amount that was payable by the person. The prescribed rebates under section 48 do not currently allow for the correction of an amount that has been paid in error.

Under section 49, a rebate is only payable when an amount has been paid in excess

of what was payable. This would encompass errors such as the use of an incorrect rate or where a registered distributor had a valid exemption certificate from a purchaser but incorrectly paid the FFC on sales to the purchaser. If the error is caught and corrected within the same period, there is no need for a rebate. In the FFC payable account there will be an entry to record the FFC charged on the original invoice, an entry to reverse that FFC, and finally an entry to record the correct amount of FFC. All of these entries occur in the same period as the fuel delivery.

Can the CRA confirm that auditors will not deny the reversal of the original invoice since it is only an accounting entry, and the net result of the three entries is to charge the correct amount of FFC in the period of the original delivery? To not allow the reversal entry would force the taxpayer to pay the incorrect amount in the current period, and instead require filing for a rebate in a subsequent period since the taxpayer would have paid an amount in error.

Similarly, an error may only be caught in a period following the period of the original entry. As a result, the registered person has paid an amount in excess of what was payable. In FCN14, Rebate under Section 49, the CRA has stated that in these situations a person would be required to file for a rebate to correct the error. The only difference in the two situations is the timing of the error correction. They are both corrections of accounting errors that would be refundable under section 49. These errors occur frequently in large organizations and correction entries will be made for both current and prior period errors. The proper classification of the errors between current and prior entries requires an inordinate amount of time and staff effort. It is extremely rare that a correction of a prior entry is more than a period or two after the original entry. In addition, verification of these entries diverts CRA auditors from more urgent enforcement actions. It would be more efficient to sample and review correcting entries at the time of audit.

Can CRA confirm that it will treat entries that correct errors found in a period following the original entry similarly to error correcting entries made in the same period as the original entry? If this is not possible under the existing legislation, the same result could be achieved by prescribing the FFC return as a prescribed form under paragraph 49(4)(a) or adding an additional prescribed rebate for the purposes of section 48.

Answer II:

When a registered distributor, or any type of registrant, discovers they have paid or reported a charge in excess of the amount that should have been reported, the Act allows 2 options :

- file a claim under section 49 (complete a B403); or
- file an amended B400 return and B400 schedule and request that the Minister reassess the period under subsection 108(4).

These errors, of course, are recognized in the books and records, as described in your question. When the error is caught and corrected in the same period, the offset is recognized in the charge payable account and no other action is needed. This accounting method is an acceptable manner

to correct the error.
For errors discovered in a subsequent period, that impact prior periods, the Act does not allow an offset in a current period. The manner in which a particular situation is handled will be based on the facts of the case, the professional judgement of the auditor and the materiality of the overall adjustment. For example, the correction of an amount that straddles a rate adjustment day may not result in a simple reallocation among reporting periods.

Question III: Federal Fuel Charge

In Alberta, gas distributors are registered in the FFC program pursuant to Part 1 of the GGPPA to calculate and remit Fuel Charge to the CRA. Registered distributors typically recover FFC from their customers through their billing cycles. If a customer is exempt, an exemption certificate is collected from the customer and provided to the registered distributor. In circumstances where a customer is unable to provide the exemption certificate in a timely manner and FFC for that billing cycle has already been remitted, the registered distributor is required to claim a rebate on Form B403– Rebate for Fuel Charge Paid in Error ("Refund Claim"). Refunds for FFC paid in error may or may not be refunded to the customer until the CRA approves the claims.

Refund Claims have been submitted by Registered Distributors dating back to September 2021 and when calling to find out status of the claims, the response from CRA has consistently been that the claims are still under review.

Can the CRA please provide an update on the timing of the Refund Claims under section 49 GGPPA?

Answer III:

As indicated previously, paragraph 36(1)(c) states that:
"the person provides, in a manner satisfactory to the Minister, the certificate in respect of the delivery to the other person."
The manner satisfactory to the Minister includes the following:

- an exemption certificate must be provided by a person to another person, in respect of the delivery, either as a hardcopy or a commonly accepted form of electronic format, such as a PDF; and
- the exemption certificate must be provided on or before the date fuel is delivered to the person in a listed province.

Where the exemption certificate is provided after the delivery, it does not meet the conditions outlined by paragraph 36(1)(c) and an exemption certificate does not apply to the delivery. Consequently, subsection 17(2) is not met and a charge applies.
Having said this, the timing of claims under section 49, when properly supported, and dependant on the scope, can generally take one month to process.

Question IV: CRA "Represent a Client" and "My Business Account" Services

The new procedures for getting new entities set up with the CRA and its online services make it extremely difficult and burdensome to get CRA online access without extensive involvement by a CFO, CEO, or other senior executives. In general, the corporate Vice President of Taxation is an officer of all entities and has been approved to have level 3 access in the past by having a director sign a delegation of authority request form and submitting it online. This has historically permitted the Vice President of Taxation to sign tax returns, authorize other personnel to have access to CRA online accounts, and to deal with administrative CRA items.

We now understand that as an officer, and not a director, the Vice President of Taxation can no longer get My Business Account access for a business account. Moreover, we understand that a director (usually the CFO) can no longer sign a level 3 access request for the Vice President of Taxation and submit it to the CRA online. The director must also login to My Business Account to validate that the Delegation of Authority was duly signed. Access to My Business Account requires the director's SIN to be associated with the entity at initial formation (incorporation), or the director must call the CRA to get access. Considering that corporate directors are not directly involved in the tax management of these entities, the above-described process is not practical or feasible for large public corporations.

Further, even if the CFO was able to get My Business Account access, the CFO is not always a director of every legal entity in a large corporate group. As such, other directors will need to be trained on how to access My Business Account to authorize level 3 access for the Vice President of Taxation access. We acknowledge a balance must be struck between security and practicality for CRA online access. However, the new authorization process is extremely burdensome for large public corporations and can cause filing delays and failures to meet deadlines. The business community was not, to our knowledge, consulted prior to the October 2021 changes to the confirmation of an authorized representative. Many TEI members participated in the CRA's nationwide outreach program on CRA's My Business Account / Represent a Client in 2019. We would like to have a discussion to present various alternatives which would remove the unreasonable aspects of the current program while maintaining the CRA's security requirements.

Answer IV:

In today's increasingly digital world, organizations must constantly take steps to safeguard sensitive information against constantly evolving threats. The protection of taxpayer information is of the utmost importance for the CRA. This is why CRA has stringent and ongoing measures in place to analyze, identify and mitigate potential threats. As part of its complement of tools to help safeguard taxpayer information, CRA requires that the person confirming an authorization request for a business, must validate that they are a person who has the authority to confirm that request for that business.

This must be done by having the certifying authority log in to My Business Account to confirm the authorization. The first authorization requires a director to log in to My Business Account. However, if the director does not wish to do this beyond the first authorization, the director can authorize a representative (such as a Chief Financial Officer) to have level 3 delegated authority. This level of authorization allows delegated authorities to log in to My Business Account to authorize other representatives. With this level of authorization, a director's approval is not needed to authorize other representatives. If a delegated authority leaves their position, they should authorize another representative to fill their role. This ensures that directors do not need to approve a new delegated authority.

Non-resident directors (who are unable to access My Business Account) need to take the extra step of informing the CRA of their non-resident status, and providing a phone number that they will personally answer. One director can attest the non-resident status of all of the directors. Any directors that cannot be confirmed by this director will need to attest to their own non-resident status. If all directors are confirmed as a non-resident, then any authorization request submitted for that business will result in CRA calling the director who certified the authorization request in order to confirm its validity.

Question V: Policy regarding Input Tax Credit claims

TEI members have experienced increased audit activity with respect to input tax credits ("ITC") claimed by a person ("Claimant") related to the person addressed on a supplier invoice/agreement. CRA's longstanding policy is to only allow the recipient named on the invoice to claim an ITC in a current filing. In the absence of an agency relationship, an intercompany re-supply is then required to move the ITC to the Claimant's current return. Since CRA will not permit the re-supply to be backdated, the denial of the Claimant's initial ITC claim results in a tax due plus interest. Further, in some cases, CRA auditors will not accept existing intercompany agreements as support that the Claimant was the recipient to the supplies giving rise to GST/HST.

Headquarters Letter #36819 issued in 2001 states "if at the time of an assessment of net tax it is discovered that an ITC has been claimed before the requirements are met, the CRA's position is not to deny the ITC if the requirements are met at the time of assessment." Accordingly, if there is an agreement in place that references the recipient of a given supply, or if the Claimant receives an invoice for resupply at the time of re-assessment, it is our understanding that the CRA's policy is to allow the ITC the Claimant initially applied for.

CRA also reiterated this position at the 2016 GST Leader Forum, but no written record has been issued. TEI members request that the CRA confirm the current policy regarding this topic.

Answer V:

Whether the person named on the invoice is the recipient is a question of fact. The person that is eligible to claim the ITC for the tax paid or payable on the property or service

is the recipient. The term recipient is defined in section 123 ETA and means:

(a) where consideration for a supply is payable under an agreement for the supply, the person who is liable under the agreement to pay that consideration;

(b) where there is no agreement and consideration is payable for the supply, the person who is liable to pay that consideration; etc..

The Claimant will be eligible for an ITC in a reporting period, for the GST/HST paid or payable, provided that the Claimant is the recipient of the supply, in that reporting period, and documentary requirements are met.

The CRA position expressed in the Headquarters Letter you referenced was meant to cover situations where a recipient of a supply may not have sufficient documentation upon filing their GST/HST return, but instead had sufficient documentation subsequently. The CRA position does not apply to, nor does it allow, the backdating of supplies.

To your comment related to the CRA examiner or auditor not "accepting existing intercompany agreements as support that the Claimant was the recipient to the supplies giving rise to GST/HST":

s 2 of the Input Tax Credit Information (GST/HST) Regulations states:

15. Supporting documentation for claiming an ITC is prescribed by regulation and includes:

(a) an invoice;

(b) a receipt;

(c) a credit card receipt;

(d) a debit note;

(e) a book or ledger of account;

(f) a written contract or agreement;

(g) any record contained in a computerized or electronic retrieval or data storage system; and

(h) any other document validly issued or signed by a registrant in respect of a supply made by the registrant on which the GST/HST is paid or payable.

However, it is true that the CRA will not accept backdating of supplies.

Question VI: Access to Taxpayer Information

TEI appreciates that the CRA has taken measures to protect taxpayer information by ensuring that only authorized parties are given access to records. The CRA generally only permits access to a business owner or a corporate director when an account representative has not yet been registered. During amalgamations and acquisitions there are often changes to business owners, directors, addresses, *etc.*, which makes it difficult for taxpayer to gain access to effect the needed account changes. In some cases, no one knows which individuals

are authorized by the CRA to access taxpayer information. The CRA's records can also be outdated and thus may not reflect the current owners or directors associated with the account. We invite a discussion of this matter to help determine how to resolve these situations going forward.

Answer VI:

Thank you for your feedback. The CRA is aware of the difficulties encountered when an amalgamation or acquisition occurs. During an amalgamation, all pertinent information should be provided to the CRA, including who the new directors will be, which authorized representatives should continue to have access to the successor or predecessor accounts, and what addresses should be on file for all impacted accounts. The CRA strives to make contact whenever necessary to complete amalgamations in order to make the process as smooth as possible. Acquisitions are more difficult, as often CRA is not aware of the acquisition. Because of this, directors from both before and after the acquisition should be involved to ensure that all necessary documentation is provided to CRA in order to allow accurate updates to occur in a timely fashion.

Question VII: GST registry improvements

In past Liaison meetings, TEI noted that it would be more efficient if a CRA GST/HST Registry search would only require the entry of a GST registration number to confirm registration, with the confirmation producing the supplier's complete name as registered. TEI members find the current search tool difficult to use, which increases registrants' administrative burden and costs. To remain compliant and protect taxpayer ITC claims, TEI members support automating their validation of supplier GST/HST registrations. However, the requirement to enter the supplier's name results in multiple errors, often due to spacing, incorrect punctuation, or the use of a trade name by the suppliers. For online validation to be efficient, the registry should only require the supplier's registration number. The validation and supplier name could then be entered into a report that would allow taxpayers to review and follow up with any suppliers whose names do not match company records or agreements.

Answer VII:

Thank you for your feedback. The CRA is aware of some difficulties users have experienced using the GST/HST Registry search tool. The Agency is looking to improve the tool make it easier to use, including TEI's suggestion below; however, it may involve legislative changes. Various areas within CRA are working collaboratively to determine what changes within the tool would be feasible and possible legislative impacts. Once we have more information, we will ensure it is shared with the TEI community.

Question VIII: GST/HST on Pension Regulatory Fees

We understand that pension regulatory fees are generally exempt from application of the GST/HST as a type of financial service. The definition of Excluded Resource for purpose of the determination of a deemed supply in subsection 172.1(2) states that *"property or a service that is supplied to a particular person that is a participating employer of a pension plan by another person is an excluded resource of the particular person in respect of the pension plan if a)……no tax would become payable under this Part in respect of the supply if i) the supply were made by the other person to the pension entity or to the master pension entity, as the case may be and not to the particular person and ii) the pension entity or the master pension entity, as the case may be, and the other person were dealing at arm's length".* The intention of these rules appears to be to ensure that an employer or pension entity does not incur additional cost for GST/HST due to the deemed supply rules. Where the initial supply to the employer was exempt, the deemed supply calculation should exclude such costs incurred by an employer.

TEI invites the CRA to describe their current policy regarding the following scenarios:

a) An employer is invoiced for exempt pension regulatory fees. The employer does not recover the cost of such fees from the pension entity. Please confirm the CRA's policy is that this is an excluded resource, or otherwise not included in the deemed supply calculation.
b) An employer is invoiced for exempt pension regulatory fees. The employer subsequently invoices the cost of those fees to pension entity. There is an actual supply to the pension but the only cost is that of regulatory fees. Is the CRA's position that the nature of the supply relating to the regulatory fees has changed ?
c) An employer is issued an invoice by the pension regulatory organization for exempt regulatory fees. The invoice is paid directly by the pension entity to the regulatory organization. There is no agreement between the employer and the pension entity for the recovery of costs. Is the CRA's position that there is a supply from the employer to the pension entity? If so, what is the nature of the re-supply?

Answer VIII:

The question states: "We understand that pension regulatory fees are generally exempt from application of the GST/HST as a type of financial service."

Based on the information provided, the pension regulatory fees would not be consideration for a financial service.

It is also unclear if "pension regulatory fees" would be exempt without detailed information related to the fees, such as who charges the fees, what are the fees for and who is the recipient of the supply.

Because of this, it is our view it would be inappropriate to provide any comments at our upcoming meeting related to the 3 scenarios provided in question VIII.

We encourage TEI or one of its members to request an interpretation or ruling and provide a detailed set of facts if they want certainty on interpretation of subsection 172.1(2) of the ETA to specific pension regulatory fees and the scenarios in question.

Question IX: Large File Case Manager

Historically, large corporations ("Large Case") GST/HST files were assigned to single Large Case Manager. At the 2013 CRA/TEI Liaison Meeting, TEI inquired about the use of the Large Case Manager for large GST/HST files. In our question, we asserted that the role of the Large Case Manager is to act as a single point of contact and to facilitate communication between the CRA and the registrant. As part of this communication, the CRA's audit plan would generally include the entities that will be subject to audit, the periods covered, and a discussion regarding the timing of the audits. In its response, CRA stated that "As a response to harmonization of GST/HST in Ontario and British Columbia in 2010, the CRA's Compliance Programs Branch decoupled GST/HST audits from income tax, thus recognizing the importance of two separate Acts. As a result of this decoupling, the CRA has moved towards having two points of contact for a Large Business one for income tax and one for GST/HST the newly created GST/HST Large File Case Manager (LFCM) is now responsible for coordinating compliance issues for large business GST/HST registrants, along with the GST/HST issues for the various affiliated entities. Similar to income tax, the GST/HST audit program used a case management approach to manage its compliance activity of its economic entity groups

At the 2017 TEI/CRA Liaison Meeting and in response to TEIs request for an update regarding the LFCM, CRA briefly stated the following:

"As a result of the discontinuance of combined GST/HST and Income Tax audits the CRA has moved towards having two points of contact for Large Businesses, one for income tax, and one for GST/HST. Where a GST/HST Large File Case Manager (LFCM) exists and is identified they are responsible for coordinating compliance issues for large business GST/HST registrants, along with the GST/HST issues for the various other affiliated entities associated with the particular large file case. In certain situations, where a GST/HST LFCM does not exist, the GST/HST team leader or section manager may act as the coordinator in addressing GST/HST compliance issues."

TEI members appreciated this approach as it minimizes the time and resources required to manage the audits, provide information, address issues, *etc*.

Recently, however, it appears that the CRA has departed from the assignment of a Large Case Manager for Large Files. Instead of a Large Case Manager overseeing the audit of a particular corporate entity, it appears that CRA audits have been allocated on a national basis. In some case, a particular corporate organization may have multiple audits with multiple auditors from multiple offices.

For example:

- ABC #1 Corp. – Large Case Auditor out of Calgary TSO;

- ABC #7 Corp. – Large Case Auditor out of Toronto TSO;
- ABC #2 Corp. – Large Case Auditor out of Winnipeg TSO;
- ABC #17 Corp. – Large Case Auditor Surrey TSO.

All the above entities are closely related parties, however, given that the various auditors are from different TSOs with different managers, our members find it cumbersome and burdensome in managing GST/HST audits. In this example, the CRA may be asking for data sets on 4 separate occasions, with 4 separate CRA ECAS personnel reviewing and preparing the data. In addition, our members may be required to walk through, educate, discuss GST issues, explain accounting system, industry practices, *etc*. separately with each of the auditors. It is especially cumbersome where it is a unique industry (energy sector, cannabis, etc.)

Questions for the CRA:

1) Can the CRA please provide an update or advise whether the practice of using a Single Large Case Manager continues? If there has been a departure from this practice, can the CRA please provide its rationale from departing, since these recent practices result in our members allocating more time and resources to each audit. This also increases the burden on the CRA.
2) Some of our members are also realizing the same issue with respect to the FFC program, such that multiple entities may be audited by multiple auditors in the Fuel and Excise Teams across Canada. Would the CRA streamline audits for these accounts as well?

Answer IX:

Fuel charge audits are managed regionally based on the head office location of the legal entity. When there are related or associated entities that belong to the same corporate organization that fall under multiple regions, the regions, in consultation with headquarters, will coordinate efforts to minimize disruption. The point of contact will generally be the fuel charge team leader or section manager. We are focused on expanding the scope of knowledge for our auditors so that, where appropriate, a fuel charge audit and an excise tax audit can be combined to reduce the number of auditors assigned to one file.

We thank you for providing context to your question and raising issues being faced by the Large Business population when dealing with different audit areas within the same audit function of GST/HST Large Audit.

Subsequent to the discontinuance of combined GST/HST and Income Tax audits, guidelines were developed to identify the large file population for GST/HST. The GST/HST large business audit population does not group registrants into "related groups or economic entity groups", but rather acknowledges that each GST/HST registrant is a separate legal entity and assigned to Tax Service Offices (TSOs) based on regionalized factors. This may mean that registrants within a group may be assigned to different regional TSOs. For large business audits, files are selected and assigned in the most effective and efficient manner while considering available resources. Generally, compliance activities are coordinated, where appropriate, when more than one

registrant is selected from a large business corporate group. In such cases, it is possible there may be more than one large file case manager.

For large business audits, each region has its own risk assessment committee that determines the audit risk of that region's population and contemplates compliance activity based on those determinations. GST/HST LBA separates the responsibilities of risk assessment, audit selection and conduct of the audit. Part of the separation of responsibilities also extends to no one LFCM being responsible for an entire corporate group for GST/HST purposes.

That being said, we understand the concerns you are raising and we do try, within the restrictions that I have explained (our systems as well as our risk-assessment is not structured per economic entity), to provide some consistency and reduce the administrative burden when possible. Large Case File Managers do make an effort, when possible, to discuss and coordinate when possible but we can understand that perhaps more coordination would be ideal.

As you may be aware, the Compliance Programs Branch is currently looking at way new ways to audit economic entities, or what you might know as "Related Party Audit" and how that could be performed within the current structure of business intelligence that we have. Furthermore, from a specific GST/HST Large Business perspective, we have been consulting with our colleagues in International and Large Business on the updated Approach to Large Business Compliance Strategy that you have probably heard about to see where some of our work in GST can align with the newly updated strategy to be more efficient and combine our efforts.

Question X: Telephone Inquiries and Changes

Since the pandemic, it is no longer possible to make address changes and request direct deposit via My Business Account. For direct deposit requests, at the beginning of the pandemic it was possible to give the information over the phone to an agent but now the only option seems to be to contact the CRA by phone, mention which company the item is for (and go through all the security questions) and then the agent sends a form to fill out that must be returned by mail. This process is tedious and time-consuming.

1) Why is it no longer possible to make address changes and direct deposit with an agent over the phone?

2) When do you plan to relaunch the online service for address changes and direct deposit requests?

Answer X:

In today's increasingly digital world, organizations must constantly take steps to safeguard sensitive information against constantly evolving threats. The protection of

taxpayer information is of the utmost importance for the CRA. This is why CRA has stringent and ongoing measures in place to analyze, identify and mitigate potential threats. As part of its complement of tools to help safeguard taxpayer information, the CRA removed the ability to make address changes and direct deposit with an agent over the phone.

The CRA plans to plan to re-launch the online service for address changes before the end of this year. Direct Deposit will not be re-instated in the near future.

XI: Communication with the CRA

At the beginning of the pandemic, auditors and Computer Audit Specialists were permitted to communicate with registrants/taxpayers by email. It was also possible to organize a video meeting with them to explain certain information and display it on the screen. It does not seem possible anymore or some CRA agents are reluctant. The only way to communicate with them is via My Business Account and phone. This approach is extremely difficult, time consuming, and leads to frustration for both parties.

If CRA is agreeable to the above, would the CRA consider publishing a formal policy or notice so that taxpayers/registrants may refer to as there have been inconsistent treatments between CRA departments, divisions, offices, teams, etc.? This is particularly important considering CRA officers working from home. In the past, taxpayer/registrants were able to call in person meetings with CRA officers to go through information, documents, working papers, etc.
In addition, our members have faced the following frustrations since auditors have been permitted to work from home:

1. Reluctance by auditors where taxpayers/registrants arrange for documents to be delivered to TSOs, etc. citing they are working from home and would be required to make arrangements to either go into the office to pick up documents, or otherwise inconvenienced, etc.; and
2. Auditors not answering government issued cell phones, citing that they do not recognize the phone numbers, thus resulting in auditor checking voicemails later, and just general frustration in getting in touch of auditors.

As outlined in the Taxpayer Bill of Rights:

5. You have the right to be treated professionally, courteously, and fairly

You can expect us to treat you courteously and with consideration at all times, including when we ask for information or arrange interviews and audits. Integrity, professionalism, respect, and collaboration are our core values and reflect our commitment to giving you the best possible service.

10. You have the right to have the costs of compliance taken into account

when administering tax legislation

We recognize the need to minimize the time, effort, and costs you have to incur to comply with the tax and benefit legislation we administer. At the same time, we have a duty to protect Canada's tax base by ensuring the highest possible level of tax compliance.

We believe that most individuals and businesses, given the opportunity, information, and tools, will voluntarily comply with the law. To promote this type of voluntary compliance, we try to make your dealings with us as straightforward and as convenient as possible by:

- offering services through multiple channels including the Internet, telephone, and mail
- being practical in our interactions with you by reducing and simplifying, whenever possible and appropriate, the work, time, and effort you devote to preparing your taxes
- improving how and when we communicate with you
- streamlining our internal processes

Commitment to Small Businesses

3. The CRA is committed to providing service offerings that meet the needs of small businesses

We work to make sure small businesses can interact with the CRA as quickly, simply, and effectively as possible. We continually improve our services and the various ways we make them available.

With this in mind, we have the following questions regarding communicating with the CRA:

a. When the registrant/taxpayer agrees, would it be possible to allow CRA agents to participate in Microsoft Teams, Webex, Google Meet, or other web-based collaboration platforms, meetings and for taxpayers/registrants to email information to them?

b. If CRA is agreeable to the above, would CRA consider publishing a formal policy or notice so that taxpayers/registrants may refer to, as there have been inconsistent treatments between CRA departments, divisions, offices, teams, etc.?

c. Can CRA please comment on its willingness or plans to adapt to the ever-changing work environment that has been exacerbated by the COVID-19 pandemic?

d. Has the service delivery changed since the work from home mandate was

introduced because of the COVID-19 pandemic?

Answer XI:

a) **When the registrant/taxpayer agrees, would it be possible to allow CRA agents to participate in Microsoft Teams, Webex, Google Meet, or other web-based collaboration platforms, meetings and for taxpayers/registrants to email information to them?**

The CRA's People First Philosophy sets out to improve the services we provide Canadians. As part of this this philosophy we are asked to consider how we can improve the ways we work with each other, knowing that this thinking can bring about big changes, which include considering the challenges other people face.

From a compliance perspective, we have tried to adapt to the new ways of doing business since the pandemic by allowing the use of Microsoft Teams for the purpose of discussion with taxpayers/registrants when a waiver . However, the challenges that we face as an organization with regards to conversations with registrants about their tax affairs are related to the level of security required for the CRA to share taxpayer information. The tax legislation is fairly stringent in terms of the confidentiality of information that CRA can or cannot share, and the Agency has to take into consideration the risk of information being shared inadvertently through electronic devices.

In fact, we have extended the use of Microsoft Teams waivers to January 31 2023 to allow for those discussions with the registrant to continue to happen over Teams. While we recognize this is not perfect as you do not have the ability to share content on the screen due to our security restrictions, it still allows for the meeting to happen virtually.

We understand that many of you were disappointed to see the use of waiver to share protected information via emails between auditors and registrants coming to an end. However, since then, the CRA has been put in place new ways to share information in a more secure way such as Canada Post Connect as a way to share documents. We understand that this is not perfect and there is ongoing work being done at the CRA to enhance the functionalities of the MyBA accounts and all CRA secure portals for more two-way communication. Many initiatives are underway and will provide more options for registrants to be able to communicate with the CRA through secure means.

b) If CRA is agreeable to the above, would CRA consider publishing a formal policy or notice so that taxpayers/registrants may refer to, as there have been inconsistent treatments between CRA departments, divisions, offices, teams, etc.?

There have been numerous internal discussions since the beginning of the COVID-19 pandemic, and especially as the CRA is moving to full business resumptions, just like many businesses related to internal policies and procedures surrounding compliance activities. Through those discussions, we have come to understand the challenges faced with coming up to a "once size

fits all approach" to policies and procedures given the differences in needs between small, medium and large businesses, as well as our non-resident population, our public sector bodies, to name a few.

For example, the business resumption has not been the same for all program areas with the compliance programs. The Small and Medium Audit Program within GST/HST had seen a lot of its auditors lend a hand for many months on the emergency benefits workloads, and therefore, the business resumption of this program has not been the same as the Large Business Audit Program.

We are currently working on providing general guidance to our field auditors within the Compliance Programs Branch on the expectations related to audit activities (for example, when it could be beneficial to have an in-person meeting with the registrant, and when other parts of the audit can still be conducted virtually), with a level of flexibility to allow for the auditor to use their judgment with the facts and circumstances of each registrants.

However, programs are also provided with the ability to provide more specific guidance to their program in order to meet the specific needs of their staff to conduct audits, while respecting the particular circumstances or needs of the audit population they work with.

c) Can CRA please comment on its willingness or plans to adapt to the ever-changing work environment that has been exacerbated by the COVID-19 pandemic?

As mentioned earlier as part of the answer to a) and b), we understand that not all businesses are back to working full time in the office, just like the CRA is not back to working in the office like pre-pandemic. Therefore, the needs to adapt to the different situations of each registrants is important (and why a one-size-fits-all approach is difficult).

Furthermore, there is lot of work being done internally in various areas of the CRA to implement 2-way communication with taxpayers in a way that does not require a fax machine, and that can be done through secure portals so that taxpayers information is protected. Furthermore, we understand that the need to be able to meet with registrant can be done virtually and that not all steps of the audit process may need to be conducted in person.

d) Has the service delivery changed since the work from home mandate was introduced because of the COVID-19 pandemic?

If by "service delivery" it is meant that the way to do audit has changed, the answer is that yes, the model has changed given that employees of the CRA, just like many of your within your own businesses, are not back working full time in the office. Furthermore, the ever changing landscape of the pandemic made it so the CRA had to adapt to the new reality of conducting business, from both an internal and external point of view and it is continuing to do so.

From a compliance perspective in GST/HST and as explained earlier, not all business resumption has been effective at the same time and in-person audits have not resumed yet.

Furthermore, the reorganization of both the Ontario Region and the Western regions have also changed the internal reporting structure which has changed some of the teams and reporting structures within the audit teams.

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Appendix

Section 36. (1) Exemption certificate — If fuel is delivered to a person by another person, an exemption certificate applies in respect of the delivery, for the purposes of this Part, only if

i. the certificate is made in prescribed form containing prescribed information;

ii. the certificate includes a declaration by the person

1. that the person is a registered distributor in respect of that type of fuel,

2. that the person is a registered specified air carrier in respect of that type of fuel,

3. that the person is a registered specified marine carrier in respect of that type of fuel,

4. that the person is a registered specified rail carrier in respect of that type of fuel,

5. that the person is a registered emitter and that the fuel is for use at a covered facility of the person,

6. that the person is a registered user in respect of that type of fuel and that the fuel is for use in a non-covered activity,

7. that the person is a farmer, that the location at which the fuel is delivered is a farm, that the fuel is for use exclusively in the operation of eligible farming machinery or of an auxiliary component of eligible farming machinery and that all or substantially all of the fuel is for use in the course of eligible farming activities,

(vii.1) that the person is a fisher, that the fuel is for use exclusively in the operation of an eligible fishing vessel and that all or substantially all of the fuel is for use in the course of eligible fishing activities, or

8. that the person is a prescribed person, a person of a prescribed class or a person meeting prescribed conditions and that prescribed circumstances exist;

iii. the person provides, in a manner satisfactory to the Minister, the certificate in respect of the delivery to the other person; and

iv. the other person retains the certificate and indicates to the person, in a manner satisfactory to the Minister, that the delivery is subject to the certificate.