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**TAX EXECUTIVES INSTITUTE, INC.**

**INCOME TAX QUESTIONS**

**Submitted to**

**CANADA REVENUE AGENCY**

**DECEMBER 5, 2017**

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Tax Executives Institute Inc. (“TEI” or the “Institute”) welcomes the opportunity to present the following comments and questions on income tax issues, which will be discussed with representatives of the Canada Revenue Agency (“CRA”) during our liaison meeting on December 5, 2017. Should you have any questions about the agenda in advance of the meeting, please do not hesitate to contact Fraser E. Reid, TEI’s Vice President for Canadian Affairs, at (604) 609-2956, or Paul T. Magrath, Chair of TEI’s Canadian Income Tax Committee, at (905) 944-5000, extension 7264.

**A. Introductory Question**

In prior years, the Assistant Commissioner, Legislative Policy and Regulatory Affairs Branch, has provided an insightful update on the CRA’s overall strategic direction. We invite the Assistant Commissioner to continue this tradition and provide an update that includes his thoughts on the vision for the Branch’s future and the role TEI can play in achieving that vision.

**B. Carryover Items and Follow-up Questions from Prior Years**

**Question 1.** *CRA Consultations on Changes to the Voluntary Disclosures Program*

On August 7, 2017, TEI submitted comments to the CRA regarding the proposed changes to the Voluntary Disclosures Program (“VDP”) outlined in *Draft Information Circular – 1C00-1R6 – Voluntary Disclosures Program*. Please provide an update on the status of those proposed changes, including:

- a) If at the time of the liaison meeting a final information circular has been released, in the spirit of transparency, please discuss the CRA’s rationale for some of the key changes as they relate to large/sophisticated taxpayers;
- b) If at the time of the liaison meeting a revised information circular has yet to be released:

- i. Please provide an update on when we might expect to see the final changes.
- ii. Please discuss some of the key focus areas as they relate to large/sophisticated taxpayers and the rationale for selecting those areas.
- iii. TEI welcomes the opportunity to discuss its submission in further detail.

**Question 2.** *Electronic Filing of Mutual Fund Trust Returns and Other Online Services*

In its response to TEI's 2016 request for an update on the availability of online services to mutual fund trusts, the CRA indicated that trusts, including mutual fund trusts, with no taxable income, tax payable, or refundable credits will be able to electronically file Form T3RET, *T3 Trust Income Tax and Information Return*, beginning in January 2018. The CRA also indicated that this service is expected to be expanded to include taxable returns and the majority of other trusts in the following year. With respect to T3 self-service portal options, the indication was that the CRA is currently reviewing its options.

Please provide an update regarding when the CRA might release guidelines and procedures for the electronic filing services being made available to trusts in January 2018. Because a significant number of mutual fund trusts may not qualify for electronic filing in January 2018 (e.g., trusts with taxable income, tax payable, or refundable credits), can the CRA confirm that they remain on track to expand the availability of electronic filing to the majority of other trusts in 2019? If so, will that be for 2018 returns to be filed in 2019? In addition, can the CRA provide an update regarding the findings of its review of the T3 self-service portal options?

**Question 3.** *Employer Provided Social Events*

During the 2016 TEI-CRA liaison meetings, the CRA verbally agreed to recommend a 50-dollar increase to the allowable nontaxable limit for employer-provided social events (i.e., from \$100 to \$150). Has this recommendation been made and approved? If so, when will the change be announced? Will the new limit be effective for 2017 taxation years?

**Question 4.** *Access to Information Requests*

The *Access to Information Act* is a very important tool for taxpayers to access information that the CRA has about a matter subsequent to a reassessment, as taxpayers do not always receive detailed information from the CRA regarding the basis of a reassessment. In its response to our 2016 question regarding the timeliness of CRS's responses to taxpayer requests under the *Access to Information Act*, the CRA stated that "the ATIP Directorate is continuously looking at ways to improve the efficiencies and effectiveness of our operations and resources," including "encouraging areas of the CRA to increase the use of informal means of disclosure to provide personal information. Taxpayers have a right to complete accurate, clear and timely information."

Our members continue to experience significant delays in receiving responses to *Access to Information* requests, with response times often exceeding one year. In certain instances, complaints made to the Office of the Information Commissioner regarding such delays have been viewed as well-founded, which confirms that the Information Commissioner regards these delays as concerning.

Despite the CRA's comments during the 2016 liaison meeting regarding the use of informal means of disclosure, many auditors remain reluctant to share information with taxpayers based on informal requests. For example, upon requesting copies of their T20 audit reports, some of our members have been instructed by their audit teams to file *Access to Information* requests, while others have been able to obtain their T20 audit reports through informal requests. The CRA's audit manual states: "The [audit] reports may also be made available to the taxpayer/registrant through an informal request for information or under the *Access to Information Act*." It is unclear from this statement whether the CRA's policy is that a taxpayer should always (or even generally) be provided with a copy of its T20 audit report upon an informal request.

Having to file an *Access to Information* request to obtain a basic audit document results in an undue delay to the taxpayer and burdens the Access to Information and Privacy Directorate with unnecessary requests, increasing systemic delays. In addition, providing a taxpayer with a copy of the T20 audit report upon an informal request shortly after a reassessment will assist the taxpayer in complying with the large corporation rule in subsection 165(1.11) in filing a notice of objection.<sup>1</sup>

Furthermore, in the case of a reassessment under the General Anti-Avoidance Rule ("GAAR") or any other reassessment that requires approval from Headquarters, our members report that their informal requests for copies of the GAAR or other referral memos to Headquarters are routinely denied, and that they must rely on the *Access to Information Act* to obtain copies of such memos. It is particularly concerning that a taxpayer may not learn the CRA's view regarding alleged misuse or abuse under the GAAR until 12+ months after the reassessment, particularly when it is the CRA's burden to prove such misuse or abuse.

- a) Please provide an update regarding the allocation of resources to the Access to Information and Privacy Directorate and comment on steps taken over the past year to reduce delays.
- b) TEI believes that, in the interests of transparency and efficiency, taxpayers should be entitled to receive copies of their T20 audit reports upon informal request. Does the CRA agree with this position?

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<sup>1</sup> Unless otherwise indicated, all references to "section," "subsection," or "paragraph" herein are to sections, subsections, or paragraphs of the federal Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.), as amended (the "Act").

- c) Please comment on whether taxpayers are entitled to receive copies of GAAR or any other referral memos to Headquarters (redacted to remove any third-party information) upon informal request.

**Question 5.** *Update on Rulings Consultations*

The House of Commons Standing Committee on Finance’s October 2016 report, *The Canada Revenue Agency, Tax Avoidance and Tax Evasion: Recommended Actions*, recommended that the Minister of Revenue conduct a comprehensive review of the advance tax ruling process by March 31, 2017. On February 8, 2017, TEI participated in a conference call with officials in the Income Tax Rulings Directorate to discuss the current advance tax rulings process and identify ways to make it more efficient, effective, and less costly. Our discussion covered the pre-consultation process, fee structure, specific types of issues on which the CRA will not provide rulings, and best practices in other tax jurisdictions. Please provide an update on any developments regarding this matter.

**Question 6.** *Section 55(2) Guidance*

TEI members remain concerned about how revised subsection 55(2) and, in particular, the broad purpose test in subsection 55(2.1) will be administered. Please provide a summary of CRA’s experience in addressing issues under these provisions, including examples of the type of rulings that are being granted and the kind of factual situations that have resulted in the CRA refusing to rule.

**C. Administrative Matters**

**Question 1.** *Withholding of Tax on Donation of Shares Acquired Through Stock Option Exercises*

An employer is generally required to withhold and remit tax on stock option benefits realized by an employee to the same extent as if the amount of the benefit had been paid to the employee as a cash bonus. However, an employer’s withholding and remittance obligations do not generally extend to any portion of the benefit that is deductible by the employee under paragraph 110(1)(d) or under subsection 110(2.1). Subsection 153(1.01) expressly permits these two tax withholding exemptions.

With respect to the tax withholding exemption under subsection 110(2.1), upon the exercise of employee stock options, if the employee directs an employer-approved broker or dealer to immediately sell the shares and donate all or part of the proceeds to a qualifying charity, subsection 110(2.1) may entitle the employee to claim a tax deduction under paragraph 110(1)(d.01) proportionate to the amount of the donated proceeds. Unlike the case where shares are donated, subsection 153(1.01) specifically provides that the amount determined under paragraph 110(2.1)(b) to be deductible under paragraph 110(1)(d.01) will reduce the amount of

the stock option benefit subject to withholding. In other words, the employer would not be required to withhold and remit tax on the portion of the cash proceeds donated to charity.

Under paragraph 110(1)(d.01), if an employee donates shares acquired in the exercise of employee stock options during the year, the shares are acquired and within 30 days of exercising the option, the employee is generally entitled to an additional tax deduction in an amount equal to one-half of the stock option benefit realized. Unlike the case where share sale proceeds are donated by an employer-appointed broker, subsection 153(1.01) does not explicitly provide for an employer withholding tax exemption in cases where after exercising options to acquire shares, the employee donates the acquired shares to a charity; technically speaking, withholding tax in respect of the stock option benefit realized on the exercise must still be collected and remitted.

In cases where an employer facilitates the donation of an employee's shares acquired upon the exercise of employee stock options by transferring such shares to a charity selected by the employee, would the CRA be open to providing an administrative concession whereby the employer could reduce the stock option benefit subject to withholding by an additional 50-percent deduction available under paragraph 110(1)(d.01)?

**Question 2.** *CRA My Business Account*

a) *General Update on My Business Account*

The CRA My Business Account is a very useful tool for administering a taxpayer's tax accounts. The CRA continues to introduce new features to the online My Business Account system, making the system increasingly useful for taxpayers. TEI invites a discussion of the new features that were recently added to My Business Account and the CRA's plans for any additional features that may benefit large corporate taxpayers.

b) *Authorizing Online Access and Granting Delegation of Authority*

Form RC321, *Delegation of Authority*, allows a business to authorize a higher level than level 2, including changing the business's representatives, identification, and banking information—effectively allowing senior management to delegate the management of representatives and maintain their focus on delivering shareholder value.

Historically, the CRA's position has been to accept only Delegations of Authority signed by corporate directors. This position is problematic for large corporations that operate in Canada, in which most employees do not have access to board members for purposes of signing Form RC321. This "only directors can sign," rule appears reasonable only for small owner-managed companies; it unduly hampers the ability of large corporations to access their tax accounts.

We understand that the CRA was considering the extension of signing privileges to “corporate officers” for purposes of Form RC321, and was working towards implementing a new policy and updating procedures, per its response to the Canadian Bar Association Commodity Tax Section annual review in February 2016. We appreciate that the CRA has been considering changes to make this process less cumbersome. Please provide an update on the planned changes. Is the CRA still considering extending the signing privileges to corporate officers?

We are concerned that the CRA has recently eliminated Form RC321 and delegations of authority may now be effected only through CRA’s My Business Account. While we appreciate that the ability to complete a delegation of authority online may simplify the process for some taxpayers, we believe the paper form is still necessary for other taxpayers—especially large corporate taxpayers. Unfortunately, the decision to repeal the paper Form RC321 further exacerbates the burden on large corporations, which now requires a corporate director to log into My Business Account and delegate authority to individual(s). Large corporate taxpayers frequently have numerous entities within their corporate structures and significant numbers of people working on their tax files. In a large corporation, it is impracticable for a corporate director of a company to access each companies Business Account and enter delegations of authority for every entity and individual into the system. In addition, the corporate director would need to obtain a RepID to perform this process, which can be a cumbersome process requiring a significant commitment of the director’s personal time. Would the CRA consider reinstating the paper Form RC321 to make the delegation-of-authority process workable for large corporate groups?

c) *Accessing Non-Resident Accounts*

Currently, a taxpayer’s non-resident accounts are not included in My Business Account and there is no equivalent “Delegation of Authority.” Without this feature, a taxpayer must follow the more cumbersome process outlined on the CRA’s website:<sup>2</sup>

**To authorize a representative** for your non-resident account or **to make changes** to representative information, you have to sign a letter of authorization and send it to us.

Your letter of authorization has to show:

- your non-resident account number;
- your name;
- the name of your representative, with his or her address and telephone number; and
- a statement from you or an authorized officer to let the CRA release your information.

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<sup>2</sup> <https://www.canada.ca/en/revenue-agency/services/tax/international-non-residents/payments-non-residents/nr4-part-xiii-tax/representatives-non-resident-accounts.html>

**Note**

For a company, your letter should be on company letterhead, signed by an authorized officer.

**To cancel** an authorization, you can phone or fax the CRA, or send your request to the Non-Resident Withholding Division in writing.

**Note**

You cannot use Form T1013, *Authorizing or Cancelling a Representative*, or Form RC59, *Business Consent*, to authorize or cancel a representative for a non-resident account. Also, representatives cannot use the Represent a Client service for non-resident accounts.

Would the CRA consider adding the management of non-resident accounts to My Business Account to make the process consistent with other CRA accounts?

**Question 3. Regulation 105 Waivers**

Transactions otherwise subject to Regulation 105 withholding may be subject to a reduction or exemption from the withholding at the discretion of the CRA, pursuant to subsection 153(1.1), where a non-resident can demonstrate, based on treaty protection or estimated income and expenses, that the normally required 15-percent withholding is in excess of the ultimate tax liability. Form R105, *Regulation 105 Waiver Application*, must be completed by the non-resident person and submitted to apply for a waiver from withholding, and the form asks to specify the currency (e.g., Section II, Box 13 – total fees and currency guaranteed to be paid to the applicant as per the current contract). The amounts which are paid to non-residents for services performed in Canada must be reported on Form T4A-NR in Canadian dollars (“CAD”), even if they were paid in another currency.

Some of our members have experienced administrative difficulties with the existing process for Regulation 105 waivers and Form T4A-NR reporting with respect to the foreign currency used for reporting. Where a Canadian corporation (the “Taxpayer”), has elected to file its Form T2, *Corporate Income Tax Return*, in a functional currency other than CAD in accordance with section 261, and the payments to the non-resident that are subject to Regulation 105 withholding are also in the Taxpayer’s elected functional currency, it is frequently unclear whether the waiver has been granted to the Taxpayer in its elected functional currency, or in CAD. The requirement for the Taxpayer that has filed a functional currency election to report amounts on Form T4A-NR in CAD may also cause unnecessary confusion and can lead to unwarranted incremental tax costs.

For example, assume a non-resident provides services to the Canadian Taxpayer and requests an income and expense waiver in the amount of \$10 million (USD). Assume further that the

non-resident receives an accepted waiver from the CRA for \$10 million, where the currency is not specified. The non-resident and the Taxpayer mistakenly believe the waiver has been granted in USD (the non-resident because it requested the waiver in USD to match the USD-denominated physical payment it received for services rendered in Canada, and the Taxpayer because it filed a functional currency election to report in USD). The CRA, on the other hand, assumes the opposite and believes the \$10 million waiver is in CAD. By year end, assume the Taxpayer has made total payments to the non-resident of \$10 million (USD) and does not withhold amounts under Regulation 105, as the Taxpayer believes its payments are within the threshold of the waiver. The CRA, on the other hand, believes the waiver was issued for \$10 million (CAD) and, if the relevant exchange rate is determined to be \$1 (USD) = \$1.30 (CAD), the payments to the non-resident have exceeded the waiver amount by \$3 million (CAD) — \$10 million (USD) × 1.3 = \$13 million (CAD) – \$10 million (CAD) waiver amount. As a result of the misunderstanding on the currency denomination for the waiver, the Taxpayer may now be required to withhold an incremental amount of \$450,000 (CAD), or \$3 million (CAD) × 15%, and also be subject to interest and penalties because of late remittance to the CRA.

To provide greater clarity for taxpayers in this process, we request that the CRA consider the following:

- a) Add a drop-down box to Form T4A-NR asking the filer to specify the currency to be reported on the form (similar to the NR4 Reporting form). The CRA Guide RC-4445 could also be modified to describe this change. This may alleviate some of the confusion when comparing the amount that is reported on Form T4A-NR to the amount that is reported on the Regulation 105 waiver granted by the CRA.
- b) In some circumstances, Regulation 105 waivers have been provided by the CRA but have not specified the currency that applies to the waiver amount. Could the CRA make it their practice to identify the currency that is applicable to the waiver amount to provide clarity to both the Taxpayer and the CRA (especially if a currency other than the Canadian dollar was specified on the waiver application)?

#### **D. Audit/Appeal Matters**

##### **Question 1.** *Auditor General's Report: Report 2, Income Tax Objections*

In the fall of 2016, the Office of the Auditor General of Canada released its report (the “Report”) on the CRA’s management of income tax objections. The Report sets out a number of recommendations focused on improving the time the CRA takes to provide taxpayers with decisions on their objections and the sharing of those decisions within the CRA. In response to the Report, the Minister of National Revenue stated that an action plan was underway to reduce processing times and the plan would be ready at the beginning of 2017.



Low- and medium-complexity objections have been a significant focus of the CRA’s action plans announced to date. Please share details of the action plan and the impact it is expected to have on the objection process for large corporations with more complex objections.

**Question 2.** *Audit Proposals*

The CRA’s Audit Manual states in respect of proposal letters that, “[i]n all cases, it is essential that the taxpayer receive a full explanation of the proposed adjustments and is given an adequate opportunity to respond.” Some of our members have received income tax reassessments based on proposal letters where the CRA fails to set out the relevant facts, assumptions, or any explanation for its adjustments. It is very challenging for large corporations to comply with the large corporation rule in subsection 165(1.11) in filing a notice of objection if all adjustments are not explained to the taxpayer, as the taxpayer would not have a full understanding of each issue to be decided. Please comment on what should be included as a “full explanation of proposed adjustments,” and what the internal procedure is for ensuring that proposal letters describe all proposed adjustments. Please explain the steps taxpayers should take if they receive a proposal letter that does not explain an adjustment and the audit team has failed to address the adjustments upon request from the taxpayer. The CRA has commented that taxpayers should escalate matters within the CRA if appropriate; however, some taxpayers have experienced difficulty in doing so. Please comment on the process for escalation and when Headquarters should get involved in a matter.

**Question 3.** *GAAR*

On filing a Notice of Objection, anecdotal evidence with the GAAR suggests that absent new information, the GAAR assessment is often maintained by the Appeals officer and is always subject to head office review. Does the CRA have statistics available on the success and failure rates of GAAR with the CRA Appeals division?

**E. Technical Matters**

**Question 1.** *New Revenue Recognition Reporting Rules*

Effective January 1, 2018, IASB International Financial Reporting Standard (“IFRS”) 15, *Revenue from Contracts with Customers*, and FASB Update No. 2014-09, *Revenue from Contracts with Customers (Topic 606)*, will implement significant changes to how enterprises recognize revenue under IFRS and U.S. GAAP, respectively. The changes signal a move from a focus on risks and rewards to one that better matches the enterprise’s meeting of performance obligations under certain contracts and that reflects the implicit financing components of those projects. Please comment on CRA’s efforts to assess the impact of this accounting change on the determination of net income for tax purposes.

**Question 2.** *Foreign Exchange Rates for Multijurisdictional Transactions*

[Reserved.]

**Question 3.** *Section 116 Procedures for Tax-Deferred Dispositions of Taxable Canadian Property on Foreign Mergers*

On September 16, 2016, the Department of Finance released draft legislation to provide a mechanism for deferral of recognition of gains and losses from dispositions of shares of Canadian-resident corporations caused by certain foreign mergers, provided such shares are “taxable Canadian property” (“TCP”) and do not constitute “treaty-protected property.” The proposed measures, if enacted in current form, would be incorporated as subsections 87(8.4) and (8.5), respectively, and would apply to foreign mergers occurring on or after September 16, 2016. In general terms, provided the conditions in proposed subsection 87(8.4) are met, a “subject share” will be deemed to have been disposed by the “disposing predecessor foreign corporation” to the “new corporation” resulting from the foreign merger for proceeds of disposition equal to the adjusted cost base of the subject share to the disposing predecessor foreign corporation immediately before the foreign merger. The new corporation will be deemed to have a cost in the subject share equal to such proceeds of disposition.

In respect of the draft legislation, we would appreciate the CRA’s comments regarding the following:

- a) Under proposed subsection 87(8.4), the new corporation and the disposing predecessor foreign corporation must make a joint election in accordance with prescribed rules. For foreign mergers occurring after September 16, 2016, will the CRA accept elections for the tax-deferred treatment of dispositions under proposed subsection 87(8.5) prior to enactment of the legislation?
- b) Please provide guidance on the manner of and form for making the joint election in proposed paragraph 87(8.4)(e).
- c) A disposition of a subject share, as described in proposed subsection 87(8.4), would, in most circumstances, be subject to the provisions of section 116 of the Act. Will the CRA extend its position in paragraph 1.82 of Income Tax Folio S4-F7-C1, *Amalgamations of Canadian Corporations*, to dispositions of subject shares for which elections will be made under proposed paragraph 87(8.4)(e)? The extension of the position is justified because a subject share will, despite the absence of a “deemed TCP” rule like the one in the post-amble of subsection 87(4), continue to be taxable Canadian property for a period of five years after its disposition on the foreign merger as the value of a subject share would have to be derived principally from Canadian real property interests at the time of the foreign merger in order to fall within the scope of the proposed legislation.

- d) If the CRA is not prepared to extend the position to exempt dispositions of subject shares from section 116 notification procedures, please provide guidance on how the CRA will review notifications for dispositions of subject shares submitted prior to the enactment of the proposed legislation. Specifically, would CRA be prepared to issue clearance certificates in respect of a disposition of subject shares on the basis that the proceeds of disposition of the subject shares will be equal to their adjusted cost base to the disposing predecessor foreign corporation? Given that the proceeds of disposition for the subject shares will be deemed to be equal to their adjusted cost base to the disposing predecessor foreign corporation, will the CRA require a valuation of the subject shares to be submitted with the notification in order to issue clearance certificates?

**Question 4.** *Waiver of Requirement to File NR4 Returns for Exempt Payments*

In Technical Interpretation 2015-0608201E5 (Dec. 22, 2016), the CRA indicated that it is no longer waiving the requirement to file NR4 returns for amounts paid by residents of Canada to non-residents if the amounts are not subject to withholding tax. The CRA also says that a waiver under subsection 220(2.1) is not available to exempt the NR4 filing obligation. During the CRA roundtable at the International Fiscal Association's 2017 annual tax conference, the CRA confirmed its new position that a taxpayer must file a NR4 return to report payments not otherwise subject to withholding tax, such as arm's-length interest. The CRA said that it is not a question of whether an amount is subject to that tax, but whether the amount is described in Regulation 202(1). The CRA said that an arm's-length interest payment to a non-resident must therefore be reported on a NR4 slip even if the payment is not subject to part XIII withholding tax. The CRA confirmed that it has not exercised its discretion to waive the requirement to file the NR4 (subsection 220(2.1)).

Therefore, for example, Canadian residents who are paying interest to an arm's length foreign bank would have to file NR4, even though the interest payment is clearly fully exempted from withholding taxes under 212(1)(b). This change in CRA's position seems contrary to the Government of Canada key priority of cutting red tape, as this increases the administrative burden of Canadian taxpayers without adding any value.

TEI members would benefit from an explanation as to why the CRA has changed its long-standing practice of waiving the filing requirement of the NR4 when the amounts paid to non-residents are exempt of withholding taxes, since under subsection 220(2.1), it is contemplated that the Minister may waive the filing requirement of a prescribed form and the taxpayer is obligated to provide the document or the information at the Minister's request.

Would CRA consider reinstating its long-standing practice of waiving the requirement to file NR4 returns for amounts paid by residents of Canada to non-residents if the amounts are not subject to withholding tax?

**Question 5. QNRE Certifications and Program Progress**

In early 2016, the CRA released Form RC473 and thereafter began to accept applications and provide certifications of “qualifying non-resident employers” (“QNREs”) pursuant to subsection 153(7) (the “R102 Program”).

During last year’s liaison meeting with TEI, the CRA indicated that the R102 Program was successful in terms of both the number of applications received and the certifications provided. Please provide a general update on the progress of the R102 Program, and specifically address the following points:

- a) How many Form RC473 applications has CRA received to date, and how many of those applications have resulted in certifications being issued?
- b) Are there any areas on Form RC473 where CRA has noticed applicants having difficulty providing satisfactory information? If so, please provide details.
- c) Section 2 of Form RC473 requests the applicant to check “yes” or “no” in respect of two questions pertaining to “the previous certification period.” Could the CRA confirm that this section is not required to be completed for first-time Form RC473 applicants, since they would not have had a previous certification period? We note that a prior version of this form included an option to check “N/A.”
- d) Has CRA revoked any QNRE certifications pursuant to its authority under paragraph 153(7)(b)? If so, please provide examples of situations where the CRA has revoked a certification, as well as the approach the CRA has applied in such circumstances to a person’s liability for any R102 Program tax remittances required and potential interest or penalties related thereto.
- e) Under the heading, *Obligations of a Qualifying Non-Resident Employer*, on Form RC473, there are seven separate bullet points outlining obligations which must be adhered to by any person so certified. Has the CRA conducted any audits, inspections or reviews of QNREs and their compliance with those obligations? If so:
  - i. What types of books and records has the CRA requested for inspection in Canada?
  - ii. Please provide any general observations as to what the CRA has found in the course of its audits, inspections or reviews of QNREs.
- f) The CRA indicates on its website that it will not consider a person’s compliance history with its withholding, remitting and reporting obligations when it reviews an initial application to become certified as a qualifying non-resident employer, but it confirms

that becoming certified as a qualifying non-resident employer does not cancel any liability such person may have related to any such prior obligations. That statement is consistent with what TEI members were told in meetings with senior officials from the CRA and the Department of Finance in 2015. Given that it has now been close to two years since these revisions to the R102 Program, has the CRA seen anything on a Form RC473 application that has caused it to deviate from its statement of policy in this regard?

- g) We understand the CRA has indicated verbally that it would not enforce the requirement that Form T4 contain a SIN or ITN in respect of a qualifying non-resident employee if Form T4 is being filed solely to comply with the R102 Program. Can the CRA confirm its position in this regard?
- h) It is a very onerous process for larger multinational organizations with many legal entities situated in various countries to prepare Forms RC473 for all entities that wish to become a QNRE in the group. In such situations, would the CRA consider instituting a process whereby it would accept a single Form RC473 from a “group parent” entity which would list all of that entity’s related QNREs in a schedule thereto, such that the certification would apply to all listed entities as well as the group parent?

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