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Executive Director

W. PATRICK EVANS
Chief Tax Counsel

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Please Respond To:

Kim N. Berjian
Manager, Commodity Tax
ConocoPhillips Canada
401 - 9th Avenue S.W.
Calgary, Alberta T2P 2H7
403.233.5480
kim.n.berjian@conocophillips.com

The Honourable Stan Struthers, Minister of Finance
Manitoba Ministry of Finance
103 Legislative Building
450 Broadway
Winnipeg, MB R3C 0V8

Re: Audit Limitation Period

Dear Mr Struthers:

Manitoba is the only jurisdiction in Canada without a legislated limitation period for tax audit assessments. This creates undue hardship for taxpayers forced to respond to information requests from the Ministry's Taxation Division related to transactions that occurred more than a half-decade earlier. Records going back that far often reside in offsite storage facilities or legacy computer systems requiring extended document archiving and increased costs of retrieving and returning requested data during an audit. Also, personnel changes often leave the taxpayer with no one having personal recollection of the transactions or the accounting for those transactions. Tax Executives Institute ("TEI") urges the province to implement a statutory four-year limitation period to ensure equitable treatment of businesses with operations in Manitoba. This would be consistent with the limitation period under the GST/HST, as well as the business tax laws of most Canadian provinces.¹

TEI is the preeminent association of in-house tax professionals worldwide. The Institute's 7,000 professionals manage the tax affairs of 3,000 of the leading companies across all industry sectors in North America, Europe, and Asia. Canadians constitute ten percent of TEI's membership, with our Canadian members belonging to chapters in Calgary, Montreal, Toronto, and Vancouver, and they must contend daily with the planning and compliance aspects of Canada's business tax laws. Many of our non-

Canadian members work for companies with substantial activities in Manitoba and Canada generally. The comments set forth in this letter reflect the views of the Institute as a whole, but more particularly those of our Canadian constituency.

Manitoba has no statutory limitation on the ability of the Taxation Division to audit and assess taxpayers. Section 46 of the *Tax Administration and Miscellaneous Taxes Act* (“TAMTA”) provides that the Taxation Division “may at any time make an assessment or reassessment of a person’s tax debt or any part of a person’s tax debt.” The Taxation Division has provided some relief in the form of a published administrative policy limiting (in most cases) the audit period to six years.

Specifically, Bulletin No. TAMTA 001 provides:

A tax officer will typically audit a period that goes back 6 years from the date the taxpayer is contacted, but will not usually include a period that was previously audited. If there are significant delays in completing the audit, the audit may be extended to bring the audit up to date.

While better than no limit, the six-year audit period remains out of step with other jurisdictions and creates undue hardship for taxpayers requiring them to engage in time-consuming document searches and personnel interviews to obtain clarification on transactions that occurred many years in the past. Companies commonly experience significant changes over six years in staff, computer systems, and corporate structure. Also, third parties relied upon for supporting documentation, such as suppliers, contractors, and customers, undergo similar changes, and maintaining linkages between different systems and files is a challenge. Auditors sometimes respond to this lack of easily accessible information by issuing assessments based on their “best estimate.” Shorter audit periods would assist the province and taxpayers by focusing resources on more recent tax periods where records can be accessed much more efficiently.

Voluntary compliance is one of the foundational pieces of the Manitoba tax system, and the Tax Division seeks to ensure that compliance through official guidance, taxpayer education, and enforcement. Bulletin No. TAMTA 001 states:

Audits are typically performed at the taxpayer’s location and are conducted to ensure compliance with the tax statutes and regulations that the Taxation Division administers. Of equal importance, it also provides the Taxation Division employee (tax officer) with an opportunity to inform and educate the taxpayer on correct tax application as it pertains to their business.

A shorter audit period would help accomplish these objectives and reduce the compliance and audit burden on taxpayers. In addition, the risk and potential magnitude of errors made by taxpayers and the province and would be decreased, improving overall compliance.

The best way to ensure that audits are completed on a more timely basis is through a legislative change to section 46 of the TAMTA limiting the assessment period (except in the case

¹ Saskatchewan is the only Canadian province with a general six-year limitations period but follows a published administrative practice of auditing two prior years plus the current year. All other provinces, except Manitoba, have a four-year limitations period, with appropriate exceptions for fraud and other extraordinary events.

of fraud) to four years from the date on which a particular tax return subject to assessment or reassessment was filed or ought to have been filed. This amendment will improve the effective and efficient administration of Manitoba tax legislation, including the Retail Sales Tax Act, for both taxpayers and the government and will make the system fairer for all.

* * *

TEI would be pleased to meet with Ministry representatives to discuss this recommendation and other issues relating to the administration of taxes in Manitoba that could lead to benefits for both the Ministry and the business community.

TEI's comments were prepared under the aegis of the Institute's Canadian Commodity Tax Committee, whose chair is Robert Smith. If you should have any questions about our recommendations, please do not hesitate to call Mr. Smith at 514.832.8198 (or Robert.Smith@mckesson.ca) or Kim N. Berjian, TEI's Vice President for Canadian Affairs, at 403.233.5480 (or Kim.N.Berjian@conocophillips.com).

Respectfully submitted,

Tax Executives Institute



Carita R. Twinem
International President

cc: **John Clarkson**, Deputy Minister Finance
Kim N. Berjian, TEI Vice President for Canadian Affairs
Robert Smith, Chair of TEI's Canadian Commodity Tax Committee