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November 12, 2013

Mr. Dave Bennett
Assistant Commissioner
Canada Revenue Agency (CRA)
750 Heron Road
Ottawa, Ontario K1A 0L5
Tel: 613-941-5007/dave.bennett@cra-arc.gc.ca

Dear Mr. Bennett:

Re: 2013 T5013/T5013A Slip Combination/XML Reporting Implementation

Thank you very much for taking the time to meet with us on Thursday, October 24 in Montreal to discuss our members' concerns with T5013 testing during the tax slip production phase of the annual reporting cycle. Our members are proceeding with all dispatch to implement the changes without any negative impacts on the filing of other tax slips, and will keep in close touch with Louise Deslauriers on industry progress against a high-level industry-wide project plan. As we discussed, our members, as intermediaries, are interconnected by definition; while adding complexity to our members', their service providers', print vendors' and CDS's efforts to meet CRA requirements, this end-to-end process contributes to the efficiency of both Canadian capital markets and the tax reporting process to the CRA.

You asked us to clarify our requests. First, we are not requesting a change in reporting dates; we will advise you if there are changes in industry timing estimates, should they arise. Second, to reduce the risks to taxpayers, the CRA and our members arising from the significant T5013 reporting changes, we would appreciate the CRA's assistance with the following matters:

1. **T5013 Communications to Issuers and Tax Advisors:** While the IIAC will be approaching issuers directly to promote timely and accurate filing as the investment dealers have been doing voluntarily for half a decade, we would appreciate it if the CRA would:
 - i. Offer, assuming interest among the 100-200 limited partnership unit (LPU) issuers and the accounting firms that provide advice to them, a one-time new-design T5013 information session, which a small number of our members could attend. This is particularly important, unless the CRA has already made these audiences aware of the magnitude of changes, as the changes are significant.
 - ii. Emphasize to issuers that timely and accurate reporting the first time is particularly critical (as mentioned, it is very doubtful automated amendment systems will be available this year).

2. **No Unwarranted Penalties on Taxpayers:** Should a delay in receiving any of the estimated 300-350,000 LPU slips expected to be sent this year cause a taxpayer to file a tax return late, particularly if an LPU files an amendment that cannot be dealt with by IIAC members until after all LPU slips have first been mailed, we request that the CRA ensure taxpayer/client penalties are waived.
3. **Penalties on Dealers:** We believe the CRA can confirm that investment dealers are diligent in their efforts to meet CRA tax reporting requirements. Additionally, CRA staff have recognized that the implementation of CRA systems changes, subsequent to a 2009 Budget announcement that appeared at first glance to be relieving, had unforeseen results. They agree that late tax slip filing penalties that previously would have been waived as a matter of course due to known challenges are now automatically issued for matters beyond our members' control (see attached e-mail from November 2012). This is compounded by the fact that, due to the absence of client-/account-/file-specific references on notices of assessment (NOAs) (examples attached), it is difficult or impossible for dealers to determine the cause of particular errors without multiple phone calls to CRA staff.

We appreciate steps the CRA has taken to address the related challenges. Our members are not requesting relief for late corporate filings or late payments such as payroll deductions, GST remittances, etc. However, in light of the size of outstanding amounts owed to investment dealers, the up-to-18-month expected delay in their obtaining reimbursements, and the desire to move dealer staff from having to research and claim penalty relief to working on tax reporting, we would appreciate confirmation that fairness will be provided through the following measures:

- i. Repayment by no later than year-end 2013 of what we understand is over \$200,000 in wrongly charged late filing penalties for which relief has been sought.
 - ii. Streamlined waivers of penalties going forward through a bulk administrative request process, especially until NOAs provide sufficient information to allow the cause of the late filing to be identified (the CRA is reviewing a proposal we have made in this regard).
 - iii. Relief for 2014 until systems changes are made in 2015 to permanently resolve the automatic charging of penalties to tax reporting financial institutions when unwarranted (the CRA, we believe, is investigating options for 2014).
4. **Taxpayer/Client Issues:** Should the challenges of the major systems changes, despite everyone's best efforts since early March of this year, prove too much, we hope we may discuss common messaging or solutions to manage complaints in an effective and balanced way.
 5. **Reasoned Approach to T1135s:** This issue was not raised when we met, but we are now sure will demand some resources our members need to have working on T5013 implementation. T1135 changes, which we were told earlier by CRA staff were welcomed by tax professionals, did not reflect input from the investment dealers that taxpayers and tax professionals will turn to for help to complete the forms. We understand an announcement on T1135s is to be made to the Canadian Tax Foundation later this month; we hope it will be to eliminate or defer the requirements as they relate to foreign assets held in Canadian dealer brokerage accounts, and exclude these assets from the total threshold calculation. Otherwise, dealer operations and analyst staff will be diverted from T5013 testing, adding to the risks that we are seeking to avoid. We sent CRA staff recommended alternatives, but received no reply on a workable approach that helps the CRA, but recognizes that all foreign assets held by Canadian regulated investment dealers will be reported at disposition (and when they generate income), so there is no possibility of tax revenue loss that we can see.

Again, thank you very much for meeting with us so quickly. Our discussions on October 30 with Mickey Sarazin, which included Kathleen Butler, were very productive and we look forward to further work on a number of initiatives.

Yours sincerely,



From: Barbara Amsden [<mailto:BAmsden@iiac.ca>]
Sent: Monday, November 26, 2012 10:39 PM
To: CRA
Cc: CRA
Subject: TRC: Request for Improvement in CRA Penalty Assessment and Application Practices

Hello, I hope you are well.

Our members have been raising with us an issue we've mentioned in the past but there is at least one new twist and the number of notices of assessment and particularly value of penalties for late filings has increased – one member reports a 100% increase in penalties to total \$30,000 for 2011. We would like to discuss the following examples and our proposal to address the fact that our members' resources and, we understand, the CRA's, are stretched as almost never before. We know that that CRA is being asked to do the same or more with less and last quarter, more than half of our retail and institutional members lost money. For this reason, I hope you will be able to direct us to someone who can help alleviate work that we think the CRA will agree is of little to no value and which, we believe, will benefit the CRA without reducing taxpayer compliance.

1. Background on Reason for Certain Penalties

As you know, our members expend considerable resources – human and financial – on tax reporting. We believe that errors and delays are proportionately very few; however, there are a good number of instances where our members are penalized for errors that are not of their own making. Below are some examples.

- i. **Penalties for amendments triggering new “original” or additional slip production:** A number of scenarios lead to amendments being processed throughout the year, including after February and March deadlines. The CRA has recently started assessing late filing penalties for second “original” slips filed after the February or March deadlines, even when the initial filing for the same investor or income was completed by the deadline. Specific examples include:
 - ***SIN or other identification number changes:*** The slip would originally have been submitted under the old SIN and a new original slip would be issued under the new SIN, a filing method we understand was previously suggested by the CRA.
 - ***Issuer reporting changes:*** An issuer may classify a payment as a return of capital and later reclassify it as a dividend. A new original slip must be issued if an investor did not have any other income to report.
 - ***Estate reporting for non-registered accounts:*** Original filings are made with a full-year reported in the name of the estate because the account is in the estate's name at year-end. Later, our members may receive requests to report the part of the year before death under the name of the individual, creating an apparently new original slip.
 - ***Income adjustments:*** Slight adjustments can be made to previously reported amounts that increase total reportable income from less than, to over, \$50. Before the adjustment, total income – at less than \$50 – did not require issuance of a slip. Increasing total reportable income to over \$50 may appear to create original slips filed late.
 - ***Issuer late filing:*** Despite the extensive preparations of members, including the building of infrastructure to make the capture of issuer data easier through CDS Innovations and ground work annually by our members with the issuer community, some issuers file late.

- **System error:** Occasionally a receipt may inadvertently not be generated during the original run.

The CRA at times has suggested submitting certain of these slips as amended rather than original filings. However, in the past, we understand that the CRA has had trouble processing amended XML records that did not have corresponding previously filed originals based on the same name and SIN. Also, to re-code systems from original to amended would involve material work at a time that there are already a considerable number of other regulatory changes requiring system development.

- ii. **Penalties for late issuance of estate slips:** Frequently, broker-dealers issue tax slips late or must re-file them for reasons beyond the broker-dealers' control as our members are often not advised on a timely basis of a client's death. It can take some time for executors to be identified and for them to speak with the lawyer for the estate. Estates can take a long time to resolve and other intermediaries (e.g., trustees, etc.) are usually involved that can delay unintentionally issuance of tax slips. In many cases, legal documentation can take time to draft, review or convey.

2. Proposed win-win solution

We believe that late filing penalties and interest on financial institutions required to do tax reporting should be waived *before the fact*, unless there is evidence of regular delinquency by any institution.

- The CRA will avoid printing and mailing notices of assessment and may also avoid processing and reconciling payments received; verifying and reversing payments of penalty and interest charges; as well as the related data entry, filing and archiving.
- Our members will equally incur fewer costs and labour.

From what we understand, our members are entitled to have penalties and interest waived in most if not all cases as the CRA's goal is timely reporting, and not a new source of revenue. As the government does not pay our members and other intermediaries for all that is associated with tax slip preparation/ mailing to taxpayers/client and tax data filing with the CRA, we hope that agreement can be reached to implement this proposal.

3. Unauthorized CRA penalty application

Recently, CRA debited at least one member's statutory payments account for penalties. This has been corrected, however, this is not authorized to our members' knowledge and we hope that this practice can be brought to the attention of someone in authority so that it is not repeated.

We believe that the proposals above are reasonable and achievable, and could be implemented, we hope, quickly. If legislative change is required, we hope that the change could be made retroactive to this time and that new practices could start as soon as the proposal can be analysed. We hope you can help co-ordinate discussion between our members and the CRA on these points and that elimination of some of these requirements – where our members act in good faith and expend millions on tax reporting efforts from which they derive no benefit – can count toward the government's commitment to red tape reduction. We look forward to following up with you to discuss these matters further.

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