

Barbara J. Amsden
Director, Special Projects
416.687.5488/bamsden@iiac.ca

August 22, 2014

Mr. Ian Ayton
Assistant Deputy Minister, Tax and Revenue Administration (TRA)
Ministry of Treasury Board and Finance
2 West Haultain Building
9811 109th Street
Edmonton, AB T5K 2L5
E-mail: unclaimed.property@gov.ab.ca

Dear Mr. Ayton:

Re: Comments on Changes to the Alberta Unclaimed Property Legislation

Thank you very much for organizing the August 12, 2014 meeting/teleconference of interested parties, including the Investment Industry Association of Canada (IIAC), regarding pending changes to the *Unclaimed Personal Property and Vested Property Act*. The IIAC is the national organization advocating on securities regulatory, tax and other matters on behalf of 160 investment dealers – 95% of firms regulated by the Investment Industry Regulatory Organization of Canada (IIROC) – that work to ensure a smooth and efficient savings-to-investment process serving Canadians, Canada's businesses and governments, and the Canadian economy. As a number of our investment dealer members are headquartered in Alberta and many of our member firms operate in the province serving Albertans, the topics discussed are important to us, and so our industry's general comments are reflected below. A number of our members may also send individual letters in light of their particular situations, for example, if they have forwarded cash that under the future rules may not need to be provided.

Comments

We appreciate the efforts that have been made by TRA officers to develop reasonable provisions for the owners who have lost track of assets they own and the holder resources dedicated to managing property of clients with whom an investment dealer has lost touch.

1. **Technical Details/Timing:** We understand that there likely will be no opportunity to comment on the legislation. As sometimes there is a need to refine details as the environment changes, aspects of the rules might be better put in regulation. It appears like the greater consistency of the new provisions makes moving to them as quickly as possible desirable (although there is time needed for holder procedural changes and staff training) and, to this end, it would be helpful for the TRA to issue a notice and post on its website, as soon as possible, that TRA will not require reporting nor accept delivery of unclaimed securities for the 2013 reporting year in the manner provided for in the current legislation and that holders can wait until the new system is clarified before remitting property.

2. **Simplicity and clarity:** We appreciate the attention to trying to make the requirements simple and clear and recommend the TRA proceed as described, that is.
 - a. As we understand it, the legislation will be based on an “account basis”, i.e., all assets in the account (including cash) will remain with the account at the holder until returned to the client or – after five years unclaimed, plus a further ten years – turned over to the government. We concur that this should make processing more straightforward both for the owner, when reconnecting with his or her forgotten assets (deals with the TRA or the holder, and not the holder for securities and the TRA for cash), and for the holder, as there will be fewer transfers to process for both.

 - b. We recommend that TRA officials include some examples of processing and compensation (see below) in an information circular.

3. **Compensation:** As we understand it, holders can either (i) deduct dormant account administrative charges for the additional security surrounding accounts without activity on a periodic basis, in which case these charges must be deducted from the 20% permitted charge of the remaining property held before being remitted or (ii) deduct up to 20% of the account’s value before remitting it to the TRA. We appreciate this flexibility and recommend it remain. The 20% of remaining property (or any annual dormancy charges even in an intervening year between the fifth and fifteenth year) may leave less than \$250 in an account and we assume that the account would be closed to charges and the TRA notified as such. Also, depending on the property, the costs of disposition and dormancy could exceed 20% of the value of the property before fees,

and we recommend that the exact fees then be chargeable with prior notification to the TRA.

We would be pleased to answer any questions you may have and appreciate being kept apprised of developments.

Yours sincerely,

"Barbara J. Amsden"

Barbara Amsden

Subject: UIPAWG: IIAC Comments on Changes to the Alberta Unclaimed Property Legislation

From: Barbara Amsden

Sent: Monday, August 25, 2014 6:37 PM

To: unclaimed.property@gov.ab.ca

Cc: Jack Rando

Subject: RE: IIAC Comments on Changes to the Alberta Unclaimed Property Legislation

Hello, we received some additional comments and questions after our submission (attached; submitted last week) was made and we would appreciate confirmation regarding the following in the rules and/or FAQs:

1. As we understand it, if there are cash and securities, there is no value that needs be sent to the Alberta Treasury Board and Finance, Tax and Revenue Administration for 15 years since the point of last contact, other than name, address and other identifying details being reported after the fifth year being unclaimed. Please confirm that this applies in the case of securities accounts that hold cash only at the time the account becomes unclaimed.
2. Please confirm that successive payments of dividends, interest, etc. into a securities account that holds securities remain with the unclaimed account until 15 years unclaimed.
3. The current legislation and regulation uses terminology that is a bit different from that commonly in use in the investment industry and reference to security and intermediary are described as those set out in the *Securities Transfer Act*, with which we are familiar. While we assume that the intent is for the Alberta *Unclaimed Personal Property and Vested Property Act*, *Securities Transfer Act* and *Securities Act* to apply to the same intermediaries and securities, could you please confirm that:
 - i. Mutual fund dealers regulated by the Mutual Fund Dealers Association of Canada (MFDA) are, like the investment dealers regulated by the Investment Industry Regulatory Organization of Canada (IIROC), holders for purposes of the amended legislation/regulation that would remit value only after the 15th year unclaimed
 - ii. Mutual funds are included in the ambit of 'securities' and would be subject to the same rules as are intended to apply to IIROC-regulated dealers with respect to your answers to points a. and b. above.

Thank you very much for your earliest practical response to these points. Please let me know if you have any further questions.

There is one additional matter that was discussed where we believe the TRA may want to make a change.

4. We discussed whether TFSAs would be covered. 6.2. of the Regulation states:

“(o) subject to clause (p), personal property in a registered retirement savings plan or a registered education savings plan under the Income Tax Act (Canada) or other plan or account that is qualified for tax deferral under the income tax laws of the jurisdiction in which the plan or account is registered or held, 3 years after the earliest of...”

TFSAs are tax-advantaged instruments, but we understand that they do not defer tax as no tax is ever paid on earnings and capital gains of assets in these accounts. If changes are being made, it would be helpful to change this technicality in the Regulation.

Barbara Amsden, Managing Director

The Investment Industry Association of Canada (IIAC)

11 King Street West, Suite 1600, Toronto, ON M5H 4C7

Tel: 416.687.5488 / Fax: 416.364.4861 / E-mail: bamsden@iiac.ca / www.iiac.ca