

1. Many of our clients are receiving “compliance letters” and are quite concerned and often think that we as practitioners have done something wrong! Can you explain the purpose of these letters and whether our clients should necessarily be concerned?

CRA Response:

Your clients should not necessarily be concerned.

By way of background, the Canada Revenue Agency (CRA) continues to utilize alternative approaches for purposes of promoting voluntary compliance. In January 2010 and then again in January 2011, the CRA’s Office Audit program launched a letter writing campaign in which it issued two distinct types of letters, that is “education letters” which addressed information pertaining to specific line items on the T1 return and “intent to audit letters” which announced the CRA’s intent to undertake audit activities in particular sectors.

The purpose of these letters is to educate and encourage individuals and businesses to comply with their tax obligations and to promote voluntary compliance in the most cost-effective manner. “Education letters” provided additional information to educate taxpayers on certain types of claims they have made. The types of claims being examined include losses in the first year of a business or rental property, employees claiming motor vehicle expenses, and flow-through share dispositions. “Intent to audit letters” in addition to providing this kind of information, also gave notice that the CRA may audit the taxpayer. Both letters also advised taxpayers on how they could request adjustments, if necessary. After allowing some time to permit these taxpayers to verify their claims, a sample from those who received each type of letter was selected for audit.

This “one-to-many” approach allowed the CRA to reach a much larger portion of the population than would have been the case with the traditional audit approach. In addition to increasing coverage, the objectives of the initiative were to:

- Educate taxpayers about their obligations and what is necessary to make specific claims or deductions;

- Encourage self-assessment by taxpayers; and
- Provide the opportunity for voluntary disclosure.

The findings of the 2010 and 2011 campaigns are currently being analyzed but preliminary results are very promising. The CRA plans to continue this type of campaign in January/February 2012.

2. By its very nature, an audit can be a difficult and frustrating process for our clients, indeed for us as practitioners. However, we would think that auditors must face similar challenges when dealing with taxpayers and their representatives. From this perspective, what are some of the more significant issues you have identified when dealing with taxpayers and their representatives?

CRA Response:

With respect to income tax audits the CRA conducts on small and medium enterprises there are two issues that comes to mind; documentation and the timeliness of responses.

Insofar as documentation is concerned, the CRA has undertaken a study of the reasons why audit assessments have been varied or vacated at the objection stage. It was found that in the small and medium file ranges, in more than 70% of the cases (both income tax and GST/HST), assessments were varied or vacated because new information was provided that was not made available at the audit stage.

For its part, the CRA will be implementing an audit review program that will, in part, ensure that reassessments are properly supported by all of the necessary facts.

However, we believe that taxpayers and their representatives can also play a role by being cooperative in providing all the necessary information at the audit stage rather than producing this information at the objection stage.

With respect to the timeliness of responses, as was recently raised with the CICA by the CRA, small and medium audit program auditors do experience delays in obtaining responses to audit query sheets. This has led to an increase in reassessments for statute barred years. The CRA is monitoring this issue and will follow-up with the CICA.

3. As you know, social media has emerged as a very powerful tool to share information. The CRA has used social media to share certain information (for example, using its Twitter feed) but since the main source for these feeds are news releases, much of the information that the CRA has shared is to announce the latest conviction for people who are not compliant with their tax affairs. Such negative announcements can be very counter-productive when it becomes routine. Given such, can the CRA shed some light on its plans to use social media as a positive tool to share information with practitioners and the public?

CRA Response:

The CRA has been incorporating various social media tools into our communications plan since 2007. We have RSS feeds to several of the most popular and frequently updated pages on the CRA web site and a CRA-branded YouTube channel with playlists for individuals, businesses and charities. Our newest addition is our Twitter account launched during the 2010 tax-filing season.

One of the CRA's goals in using social media tools like Twitter and YouTube is to balance the enforcement messages with service messages thereby making the tax system more accessible for taxpayers and benefit recipients. In addition to conviction notices, we tweet about tax tips, news releases and ministerial events.

The CRA is exploring new ways to use the social media tools and that may include more service oriented messages and program related information. Please note that Twitter is still new to us as it has been in use for only about 7 to 8 month and our usage of the tool is still evolving. As with any new tool, there is a learning curve and we are excited about the future possibilities. We have recently begun to tweet more service-oriented messages, such as information on new credits and deductions, information for new Canadians and information for parents and families.

In addition, we have developed in-house capacity to produce our own, short videos for YouTube and plan to create an ongoing series of Video Tax Tips. We are also exploring ways to expand our Twitter and YouTube presence.

It is our plan to continue to evaluate other social media strategies to effectively reach Canadians for purposes of promoting voluntary self-assessment, raising awareness and levels of compliance and changing taxpayer behaviour.

4. Many tax practitioners have non-profit organizations (NPOs) as clients, and many of these clients are undergoing an audit. Can you discuss this project, and what the next steps will be in general?

Follow-up – Based on what we've seen so far, most of these NPOs are generally meeting the NPO conditions but do have some specific initiatives that do create a profit. Can you provide some more information on what the next steps will be on this issue in particular?

CRA Response:

From an income tax perspective, few audits had been done in the NPO sector in the past to confirm that an entity claiming NPO status qualified or continued to qualify for tax exemption. It was determined that an audit project should be undertaken to identify possible tax at risk related to this sector and recommend further courses of action. This is a research project that is being used both as an educational tool and as a means to gather intelligence about a particular sector.

For those organizations that have been selected and found not to be in compliance with the legislation, they are informed of these areas of non-compliance and instructed on how to become compliant. However, in cases of serious non-compliance, the CRA will re-assess. The goal is to characterize and quantify compliance, measure tax at risk associated with the NPO sector and recommend courses of action. Risk will be quantified as the amount of tax dollars at risk in the audited population.

Commencing in November 2009 and continuing for the next 3 fiscal periods, the small and medium enterprises compliance program is examining approximately 480 randomly selected NPO files each year. In order to make statistically valid conclusions from the project, a sample of approximately 1,440 files will need to be completed.

Once the pilot is completed the CRA will assess the results, including reviewing the future of the NPO compliance program. As this is a research project, it would be premature at this time to comment on the results of the pilot and what further courses of action would be recommended. However, in respect to the general issue of the “level of profits” that an NPO can earn, we offer the following:

- An NPO can earn profits, but the profits should be incidental and arise from activities that are undertaken to meet the organization’s not-for-profit objectives; such profits being referred to as “incidental profits”.
- Earning profits to fund not-for-profit objectives is not considered to be itself a not-for-profit objective.
- Limited fundraising activities involving games of chance (e.g. lotteries, draws), or sales of donated or inexpensive goods (e.g. bake sales, plant sales or chocolate bar sales), generally do not indicate that the organization as a whole is operating for a profit purpose.
- An organization should fund capital projects and establish reasonable operating reserves from capital contributed by members, from gifts and grants, or from accumulated, incidental profits.
- Capital contributions, gifts and grants, and incidental profits should generally be accumulated solely for use in the operations of the organization including funding capital projects or setting up operating reserves and should not be used to establish long-term reserves designed primarily to generate investment income.
- Maintaining reasonable operating reserves or bank accounts required for ordinary operations will generally be considered to be an activity undertaken to meet the not-for-profit objective of an organization.
- Consequently, incidental income arising from these reserves or accounts will not affect the status of an organization.
- Finally, in determining whether an organization has any profit purpose, the activities of the organization must be reviewed both independently and in the context of the organization as a whole.

Therefore, taking these general guidelines into account, some of the situations that concern us are:

- NPOs operating businesses in competition with for profit businesses. It is one thing to have a bake sale to raise funds but it is another to set up a bake shop and start franchising.
- NPOs being used for personal wealth creation or tax planning purposes.
 - A recent article in the Canadian Tax Journal¹ suggested using a non-profit corporation to hold a family cottage in order to, among other things, avoid the deemed disposition rules upon the death of a taxpayer.
 - Unreasonable reserves are being created that are used to invest in real estate holdings.
 - Condo corporations setting up lucrative rental arrangements, leasing roof space for cell phone towers, for the purpose of earning profits and reducing condo fees.

¹ Tim J. Cestnick, "Tax Issues and Opportunities For The Family Office: Family Harmony and Wealth Distribution", Canadian Tax Journal (2011) 59:2, 353-376, at 357

5. We have noted an increase in audits on Retirement Compensation Arrangements (RCA). Can you bring us up-to-date on these audits?

CRA Response:

The RCA rules as enacted by Parliament were anti-avoidance rules aimed at arrangements entered into to unduly postpone the tax on salary or retirement benefits. At the same time the rules that were put in place contemplate legitimate arrangements between employers and employees to fund an employee's retirement or loss of office.

Our on-going compliance activities have uncovered abusive tax avoidance arrangements that involve the use of RCAs such as:

- RCA's being used by shareholder/employees of privately held corporations to avoid tax on dividends by converting what would otherwise be a taxable dividend into a capital gain, that is, surplus stripping.
- Canadians, in contemplation of emigrating, having their employer make a large contribution to their RCA just prior to their emigration. Once the former employee becomes nonresident, the RCA pays the amounts out to them. The amount paid to the nonresident, depending on the circumstances, may be taxed in Canada under Part XIII or in some circumstances (where the Canada – U.S. Treaty is relevant) may not be taxed in Canada at all.

In our view, these arrangements seek to defeat the intent of the legislation and are contrary to the tax policy objectives.

We also have similar concerns with respect to so-called "leveraged RCAs". While there may be some variants to the scheme, the following describes the type of transaction that we are concerned with.

- Opco contributes \$1 million the RCA trust.

- \$500,000 goes towards paying Part XI.3 tax and \$500,000 is used by the RCA Trust to acquire a life insurance policy.
- The RCA Trust then borrows \$1 million from the bank using the life insurance and tax deposit as collateral.
- The RCA Trust then lends \$1 million to Investco.
- Investco then loans Opco \$1 million.

We consider the loans from the RCA Trust to Investco and then to Opco as non-bona fide loans. They are not secured in any meaningful way which means that there is no reasonable assurance that the funds will be available to the employee upon their retirement or loss of employment. Generally, there is a General Security Agreement (“GSA”) between the RCA Trust and Investco which pledges all the assets of Investco as collateral for the loan but the only asset held by Investco is the loan to Opco. There is no such GSA between Investco and Opco. There are also no terms of repayment of the principal amount over a period of time. Rather the loan between Investco and Opco is a demand loan which only needs to be repaid on the demand of Investco.

As part of the arrangement, Mr. A has entered into a Put Agreement with the bank whereby, at any time, the bank can obligate Mr. A to purchase the Investco loan from the RCA Trust for its fair market value upon a default triggering event.

What we have generally seen is that over a period of up to 2 years, Opco begins to shift its assets out to an affiliated corporation so ultimately, Opco no longer has any assets. As such, it is no longer able to pay Investco any interest on its outstanding loan. As Investco did not receive its interest payment from Opco, it does not have any funds to pay its interest costs to RCA Trust. As RCA Trust did not receive any payment from Investco, it does not have any funds to pay the interest on the bank loan which is a default triggering event.

The bank then requires that Mr. A acquire the Investco loan held by RCA Trust for its fair market value. Since Opco is no

longer able to meet its obligations because it is insolvent, the Investco loan is worth \$1 so Mr. A pays RCA Trust \$1.

The RCA Trust cashes in the life insurance policy and the cash surrender value of \$500,000 is given to the bank as partial repayment of the loan principal balance. The RCA Trust files a request for a refund of the Part XI.3 tax on the basis that it no longer has any assets and, therefore, no funds available to make a distribution. The RCA Trust receives a \$500,000 Part XI.3 refund and forwards it to the bank as final payment of the principal on the bank loan.

Therefore, our most prevalent concern is the fact that transactions are being undertaken to secure a deduction on the initial contribution to the RCA Trust by Opco, while the employee will never receive distributions from the RCA Trust, nor pay tax. In addition to this issue, we are also reviewing general issues such as determining whether the arrangement was in fact a salary deferral arrangement.

6. The small and medium business population is very large and diverse. While most SMEs are compliant, there are some who avoid paying taxes. It is this latter group who the CRA should be targeting and yet, we have seen taxpayers selected for audit who to our knowledge are perfectly compliant. Would you explain how your program selects files for audit and, in particular, why taxpayers who seem to be very low risk are audited? Will you advise taxpayers of how they are viewed by the CRA from a risk perspective?)

CRA Response:

In general, there are five means by which SME files are selected for audit:

- Risk assessed file selection
- Research audit program
- Behavioural audits
- Local initiatives
- Secondary files

Risk assessed file selection

Based on an analysis of many indicators, returns are risk assessed to determine whether or not the correct amount of income has been reported. The CRA's risk assessment system relies on information from a variety of sources, including the Research Audit Program, taxpayer compliance history, leads from enforcement programs, Construction Payment Reporting System, and other information filed by taxpayers.

Research audit program

In order to measure compliance in a particular group of taxpayers from the T1 or T2 population, the CRA selects files on a statistically valid random basis. Therefore, the risk associated with these files varies.

From these research audits, we establish compliance baselines at both a national and industry level. If the test results indicate that there is significant non compliance within the group, we may audit its members on a local, regional or national basis. Based on this information, algorithms are refined/validated/ developed to ensure the selection of files demonstrating the most risk. This information then contributes to the CRA's overall risk assessment of taxpayers on a more strategic basis which drives our audit selection and other compliance activities.

Behavioural audits

Where taxpayers have been identified as "high risk" based on previous audits, they are subject to follow-up "behavioural audits". For example, taxpayers who were subjected to penalties or who have been convicted of tax evasion may be subject to these audits. The objective is to change the taxpayer's behaviour through a higher level of scrutiny.

Local initiatives

Tax Services Offices may undertake audit initiatives based on local information. Generally, these initiatives must address locally identified risks and performance expectations.

Secondary files

Sometimes files are selected for audit because of their association with other previously selected files. For example, if you are in partnership with another person and that person's file has been selected for audit, it is usually more convenient to examine all the records at the same time.

A Taxpayer's Risk Assessment

Taxpayers typically are not advised as to how they are viewed by the CRA from a risk assessment perspective. Until an audit is conducted, it would be unfair to characterize a taxpayer from a risk perspective. Although we have confidence in our tools to select higher risk taxpayers, it is not conclusive.

7. There appears to be an increasing reluctance by CRA auditors to settle contentious issues identified in the course of a business audit. In several cases, it appears that the auditor has simply recommended that the taxpayer appeal the assessment even where similar matters historically would have been settled at the audit level or the practitioner believes that the response they provided was not given full consideration when the audit proposal is assessed without adjustment.

- Is there a particular reason why auditors appear to be reluctant to settle or negotiate issues at the audit level rather than have them potentially clog up the appeals process?
- Has there been an increase in the number of Notices of Objection filed in the last few years? If yes, has this contributed to the delays in assigning objections to appeals officers and accordingly a delay in resolution?
- Do you have any statistics regarding appeals which are resolved in favor of the taxpayer as opposed to in favor of CRA?
- Where an issue is resolved in the favour of a taxpayer, and is due to an issue that is not a question of fact (for example, a misinterpretation of a specific rule), do auditors receive feedback on these adjustments?
- Where a taxpayer or representative has tried unsuccessfully to resolve an issue with an auditor, is there any recourse other than filing an objection?

CRA Response:

In terms of actually settling audit issues, this should only be undertaken where it is reasonable to do so based on an interpretation of the facts of a particular situation. Auditors should not settle issues that involve questions of law or in a manner that would be contrary to established CRA positions or policies. Where significant matters are settled, a waiver of the taxpayer's right to object to the assessment may be requested.

The number of objections received over the years with respect to regular compliance activities has remained fairly stable. However, there has been an increase in objections received as a result of CRA's enhanced compliance activities in areas of aggressive tax planning.

In recent years, 35% of objections have been resolved in favour of the taxpayer and the amounts allowed in those cases represent less than 20% of total taxes in dispute for all objections. Of the remaining objections, a small proportion was subsequently allowed upon appeal to the courts.

While auditors can receive informal feedback from Appeals in cases of the misinterpretation of a provision of the *Income Tax Act*, there has not been a systematic mechanism put in place. However, Audit does work closely with Appeals in determining the reasons why issues are resolved contrary to Audit's position. In this respect, the study noted in question 2 above found that approximately 16% of cases under objection were varied because of the improper application of facts, law or policy. There were no significant trends noted, in this respect. The quality of audit is a key issue for the CRA. An audit review program is being introduced that will address this issue within Audit as well as more generally the overall quality of CRA audits.

If for any reason you believe there is a significant issue with respect to the conduct of an audit, including an incorrect application of the law, then we expect that these issues will be resolved at the Tax Services Office level, through the team leader, Assistant Director of Audit and Director, and then through the Regional Office. In the rare cases where this process does not resolve the issue then Headquarters may be involved.

8. Although changes were made to help ensure individuals receive T3 and T5013 slips by the end of March, feedback received by the CICA indicates that taxpayers still find that many slips arrive well into April. One of the unfortunate results from this is that the risk of missing a slip increases for taxpayers who otherwise have a good compliance record when slips are received late. In the recent Symonds case (2011 DTC 1201), the Tax Court of Canada ruled that the second strike rule in subsection 163(1) is subject to a due diligence test, and in particular, innocently missing an income slip should not count as a failure to report. Can you provide comments on this case, and in particular, will the CRA consider whether there has been due diligence prior to assessing this penalty in light of the Symonds decision?

CRA Response:

If a T3 or a T5013 information slip is not received in a timely manner, taxpayers are advised by the CRA to file their tax returns on time by estimating the income that corresponds to the missing slips using what information they have such as financial statements.

If the income from a particular slip was overlooked or underreported and the slip is received after the tax return is filed, an adjustment request should be submitted in a timely manner. Under these circumstances, the CRA will generally not consider the original omission to be a failure under subsection 163(1) as the taxpayer has made reasonable efforts to report the income.

While we recognize that the subsection 163(1) penalty is subject to a due diligence defense, we do not intend to apply Symonds as a precedent in other cases where income associated with an information slip was unreported and no efforts were made to estimate the income or advise the CRA of the omission.

9. The CRA has on several occasions noted the importance of tax intermediaries in respect to compliance. Can you provide us with any new initiatives that you are contemplating or working on that will implicate us?

CRA Response:

Given that tax intermediaries are an integral component of Canada's tax system, the CRA is continually looking at ways to enhance its relationships with tax intermediaries to improve service, education and compliance. We have noted and are looking with interest at recent initiatives undertaken in the United States and Australia to put in place regimes that:

- Require paid tax preparers to:
 - Meet certain education requirements;
 - Register; and
 - Adhere to a professional code of conduct; and
- Establishes an administrative body that oversees the program including the review of registered preparers and the imposition of sanctions.

In May 2011, the UK's Her Majesty's Revenue and Customs (HMRC) announced consultations with tax agents on their relationship with HMRC, including an enrollment or certification system.

10. We have noted an increase in the compliance activities in relation to Regulation 102 and non-resident corporations bringing employees to Canada. Can you provide an update on these issues and measures being undertaken by the Agency?

CRA Response:

The provisions of subsection 153(1) and Regulation 102 apply equally to persons paying employees rendering service in Canada whether or not the payer is resident in Canada.

Subsection 153(1.1) provides an opportunity for the employee to request relief from the Minister of National Revenue (the "Minister") from withholding obligations should the employee believe the withholdings would cause undue hardship, for example, where the employee may be exempt from tax by virtue of the provisions of a tax treaty. Rather than availing themselves of the relief under subsection 153(1.1), we have found that the payer is deciding that employee withholdings are not required even though this decision rests with the Minister.

Therefore, the CRA will continue to enforce subsection 153(1) and Regulation 102, as necessary.

11. Taxpayers often face a combination of proposed law, draft legislation, and comfort letters that could affect their tax filings. Can the CRA confirm that taxpayers should file on the basis of these pending changes?

CRA Response:

It is the CRA's longstanding practice to ask taxpayers to file on the basis of proposed legislation. This practice eases both the compliance burden on taxpayers and the administrative burden on the CRA. However, where proposed legislation results in an increase in benefits to the taxpayer, for example, the Canada child tax benefit) or if a significant rebate or refund is at stake, the CRA's past practice has generally been to wait until the measure has been enacted.

A comfort letter is not considered proposed legislation and usually only reflects the Department of Finance's views on a particular issue affecting a specific taxpayer. Given that our tax system is based on a system of self-assessment, taxpayers may decide to file on the basis of a comfort letter. Generally, the CRA will not reassess taxpayers who filed on the basis of a comfort letter, provided that they did so in conformity with the comfort letter.

Generally speaking, the CRA will not reassess if the initial assessment was correct in law. As a result, a taxpayer's request to amend their tax records to reflect proposed legislation will be denied. It is recommended that taxpayers file a waiver in respect of the normal reassessment period to protect their interests.

In the event that the government announces that it will not proceed with a particular amendment, any taxpayers who have filed on the basis of a proposed amendment are expected to take immediate steps to put their affairs in order and, if applicable, pay any taxes owing. Where taxpayers acted reasonably in the circumstances, took immediate steps to put

their affairs in order and paid any taxes owing, the CRA will waive penalties and/or interest as appropriate.

QUESTIONS/RESPONSES TO BE INCLUDED IN THE MATERIALS BUT NOT ADDRESSED AT THE CONFERENCE

12. As tax advisors, it would appear that the number of proposed assessments with either gross negligence penalties and/or assessments outside of the normal reassessment period have increased in recent years.
- Has there been an increase in the assessment of gross negligence penalties in the past few years?
 - Does CRA keep track of the number of times that gross negligence penalties have been proposed as opposed to the number of times they have been ultimately assessed?
 - Has the CRA changed its views on when taxpayers can be reassessed beyond the statute-barred period?
 - Is CRA being more aggressive in proposing gross negligence penalties or assessments outside of the normal reassessment period at the audit stage?

CRA Response:

For small and medium audits, the rate of applying penalties has been consistent over the last 5 years, that is, penalties are applied in 16% of files. However, the CRA has been targeting its audit activities in recent years towards areas of greater risk such as the underground economy. By its very nature, underground economy audits should result in the application or at least the consideration of the 163(2) gross negligence penalty. For audits done in areas other than targeted risks, the application of the penalty falls to 10% of audits.

As a result of a 2006 internal review, the CRA has undertaken measures to ensure greater consistency in the application of policies and procedures with respect to penalties. This review is available on the CRA website at: <http://www.cra-arc.gc.ca/gncy/ntrnl/2006/lp-eng.html>

Gross negligence penalties are applied when the facts of the case indicate that the taxpayer knowingly, or under circumstances amounting to gross negligence, made false statements or omissions. Our most recent statistics indicate that penalties are applied in 75% of cases where application of a penalty is considered at the proposal stage.

13. As discussed earlier in the conference, the 2011 Budget proposed to limit the tax deferral opportunities for corporations (other than professional corporations) with significant interests in partnerships where the partnership fiscal period is different from the corporation's taxation year. And, the CRA has recently announced that it is withdrawing its administrative policy with respect to joint ventures that have different fiscal periods when compared to joint venture members (subject to consultations with effected taxpayers). Can you update us on these consultations and the general tax issues facing joint venture members? Follow up Q1 - Can you advise if the CRA will be releasing specific forms for the partnership changes, and if so, when?

CRA Response:

We are in the process of consulting with representatives on developing an administrative policy on transitional relief for joint ventures. The representations that have been made to the CRA are very useful in highlighting the concerns of joint ventures and we thank those who have taken the time to provide us with feedback on industry practices. It is our intention to release the revised administrative policy with respect to joint venture fiscal periods in the near future.

We cannot provide a general list of tax issues facing joint venture members.

It is anticipated that the new forms, in respect to partnerships, will be released in April 2012. In the meantime, the CRA has posted interim reporting procedures on its Website.

14. What issues have arisen in applying the new rules under section 116 of the *Income Tax Act*? Any advice for taxpayers to expedite the process?

CRA Response:

Our experience has been that there still remains a certain degree of uncertainty in the application of the new rules that apply to non-residents who dispose of Taxable Canadian Property (TCP) that is Treaty-Protected Property (TPP). The following approach should assist taxpayers in complying with their obligations under section 116 regarding the disposition by a non-resident of certain property:

- Determine if the property is TCP or is included in subsection 116(5.2)
- If the property is not TCP, section 116 does not apply.
- If the property is TCP or one of the properties listed in 116(5.2), determine if the property is “excluded property” as defined in paragraphs 116(6)(a) - (h).
- If the property is excluded property, section 116 does not apply.
- If the property is TCP and not excluded property as defined in 116(6)(a) to (h), determine if the property is TPP.
- If the property is TPP and the purchaser and vendor are not related, the property is excluded property under paragraph 116(6)(i) and section 116 does not apply.
- If the property is TPP and the purchaser and vendor are related and the purchaser provides notice by filing Form T2062C within 30 days after the disposition, the property is excluded property and section 116 does not apply.
- If the related purchaser does not provide the required notice, the purchaser is liable for the failure to withhold penalty unless the vendor obtains a Certificate of Compliance.

- Where the purchaser is not satisfied that the property is not TCP, the vendor may submit a request for a Certificate of Compliance.

The most effective way to expedite the issuance of a Certificate of Compliance under section 116 is to:

- Ensure all required fields on the appropriate forms are completed.
- Ensure all supporting documents are provided with the request for the certificate.
- Obtain an Individual Tax Number or Business Number for the vendor prior to the disposition.
- Ensure any correspondence submitted with the appropriate forms makes reference to a request for a “Certificate of Compliance” and not a “clearance certificate”.

Information on recent changes to the section 116 procedures can be found on our website at:

<http://www.cra-arc.gc.ca/tx/nnrstdnts/cmmn/dsp/menu-eng.html>